



# **THE BIHAR AND ORISSA CODE.**

**VOLUME I.**





THE  
**BIHAR AND ORISSA CODE**  
IN FOUR VOLUMES

CONTAINING  
The Regulations and Local Acts in force in  
the Province of Bihar and Orissa

WITH  
Tables and Lists, Notes as to Scheduled  
Districts and De-Regulationised Tracts, and  
Notifications declaring Enactments in force in,  
or extending Enactments to, such Districts  
and Tracts, and a full Index

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**SECOND EDITION.**

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EDITED BY  
J A SAMUEL, B A LL B (Cantab )  
Of Gray's Inn. Barrister-at-Law

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**VOLUME I.**  
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Bengal Regulations Local Acts of the Governor-  
General of India in Council (except Acts in force  
only in the district of Sambalpur), Local Acts of  
the Indian Legislature and Regulations made under  
the Government of India Act.



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## P R E F A C E .

THIS, the second edition of the Bihar and Orissa Code, is published in four volumes with a Supplement.

The Code contains the following enactments as modified up to the 31st December, 1931, namely :-

- (1) Bengal Regulations,
- (2) local Acts of the Governor-General of India in Council and of the Indian Legislature,
- (3) Regulations made under the Statute 33 and 34 Vict., C. 3 and the Government of India Act,
- (4) Bengal Acts passed before the 1st April, 1912 and
- (5) Bihar and Orissa Acts passed between the 1st April, 1912 and the 31st December, 1931.

2 The following general Acts or such portions thereof as affect Bihar and Orissa have also been included :—

- (1) The Tributary Mahals of Orissa Act, 1893 (11 of 1893);
- (2) The Amending Act, 1897 (5 of 1897);
- (3) The Assam Labour and Emigration Act, 1901 (6 of 1901) and Acts amending the same;
- (4) The Amending Act, 1903 (1 of 1903);
- (5) The Decentralization Act, 1914 (4 of 1914);
- (6) The Repealing and Amending Act, 1914 (10 of 1914);
- (7) The Devolution Act, 1920 (38 of 1920);
- (8) The Enemy Missions Act, 1921 (9 of 1921); and
- (9) The Dangerous Drugs Act, 1930 (2 of 1930).

3. The following Bengal Regulations have been omitted from the Code as they are at present in force only in the Santal Parganas district :—

- [1] (1) The Bengal Land (Conditional Sales) Regulation, 1798 (1 of 1798);
- [1] (2) The Bengal Land (Redemption and Foreclosure) Regulation, 1806 (17 of 1806); and
- (3) The Military Bazaars Regulation, 1810 (20 of 1810).

4. Volume I contains—

- (1) Bengal Regulations,
- (2) local Acts of the Governor-General of India in Council and of the Indian Legislature except those in force only in the district of Sambalpur,
- (3) the general Acts specified in paragraph 2 above, and
- (4) Regulations made under the Government of India Act.

5. Volume II contains Bengal Acts passed before the 1st April, 1912 which are still in force in Bihar and Orissa.

6. Volume III contains Bihar and Orissa Acts passed between the 1st April, 1912 and the 31st December, 1931.

7. Volume IV contains—

- (1) an alphabetical table of short titles of enactments printed in the Code,
- (2) an explanatory note as to the scheduled districts and de-regulationised tracts in Bihar and Orissa,
- (3) a chronological table of enactments declared in force in, or extended to, scheduled districts in Bihar and Orissa by notification under the Scheduled Districts Act, 1874 (14 of 1874), and still in force there,
- (4) a chronological table of enactments in force in the de-regulationised tracts in Bihar and Orissa,
- (5) a list of abbreviations used in the Code,
- (6) a list of publications cited in the Code, and
- (7) a full index to the Code.

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[1] These are printed in the Santal Parganas Manual, 1911 (Second edition, 1925)

8 The Supplement contains Acts of the Governor-General in Council which are in force only in the district of Sambalpur. These Acts were in force in the district of Sambalpur before it was transferred to Bengal in 1905, and continued in force in the district after it was transferred to Bihar and Orissa in 1912

9 Certain Acts of a purely private character or which are spent or obsolete have not been published in the Code

10 To Volumes I to III of the Code and to the Supplement are prefixed chronological tables showing, as far as practicable, whether and to what extent each enactment printed in them has been repealed or otherwise affected by subsequent legislation.

J. A. SAMUEL,

*Deputy Secretary to Government.*

*The 23rd August 1932.*



*Chronological Table [ 1 ] of Enactments Printed in this Volume*

[With respect to the entry of repealing enactments in column 4 of this Table, the following has been the ordinary practice :—

- (1) where an enactment has been totally repealed more than once, the latest repealing enactment has alone been entered;
- (2) where an enactment has been partially repealed and afterwards totally repealed, the total repeal only has been entered: a repeal of the unrepealed portions of an enactment is treated as a total repeal;
- (3) partial repeals covered by later partial repeals have not been entered;
- (4) local repeals covered by later local repeals have not been entered;
- (5) where an enactment has been locally repealed and afterwards repealed by an enactment whose operation is unrestricted, the later repealing enactment has alone been entered.]

1	2	3	4	5
Year.	No.	Short title	How repealed or otherwise affected in Bihar and Orissa by legislation.	Page.
I. -- BENGAL REGULATIONS.				
1793	1	The Bengal Permanent Settlement Regulation, 1793.	Short title given, Act 5 of 1897 ... Application barred in the Angul District by Reg. 3 of 1913. S. 10 supplemented, Ben. Reg. 1 of 1891, s. 8. Ss. 10, 11 rep. in pt., Act 1 of 1840.	8
..	2	The Bengal Land-revenue Regulation, 1793.	Short title given, Act 5 of 1897 ... The application of the whole Reg. is barred in the Sonthal Parganas by Reg. 3 of 1872 as amended by Reg. 3 of 1899. With the exception of ss. 7 and 8 (10) the whole of the Reg. is also barred in the Angul District by Reg. 3 of 1913. S. 13 rep. in pt., Ben. Reg. 5 of 1804. Rep. as to <i>Diwans</i> , Ben. Reg. 15 of 1813. Ss. 28, 29, 34, 35, 40 to 70 rep., Ben. Reg. 3 of 1822. S. 12 rep., Act 25 of 1851. S. 17 rep., Act 8 of 1868.  [See next page.]	15

[1] This Table shows only Bengal Regulations, Local Acts of the Governor-General of India in Council, Local Acts of the Indian Legislature (except those which are in force only in the district of Sambalpur) and Regulations made under the Government of India Act, which are in force in the Province of Bihar and Orissa. For full tables of all enactments, wherever in force, and whether repealed or unrepealed, see the 'Chronological Tables of the Indian Statutes.'



*Chronological Table of Enactments Printed in this Volume — contd*

1	2	3	4	5
Year.	No	Short title.	How repealed or otherwise altered in Bihar and Orissa by legislation	Page
I. --BENGAL REGULATIONS— <i>contd</i>				
1793	2	The Bengal Land-revenue Regulation, 1793— <i>concl'd.</i>	<p>Ss. 23, 41 rep., Act 20 of 1871</p> <p>Ss. 2, 19, 13 rep., s. 3, rep. in pt., Act 12 of 1873.</p> <p>Ss. 4, 8 to 10, 11 to 16, 18, 24 to 26 rep. in pt., ss. 21, 22, 27, 30 to 32, 46, 47 rep., Act 16 of 1874.</p> <p>S. 8 (13) rep., in pt., Act 12 of 1876.</p> <p>Ss. 18, 36, 38, 39, 40, 42, 43, 45 am., Act 1 of 1903.</p>	
"	8	The Bengal Decennial Settlement Regulation, 1793.	<p>Short title given, Act 5 of 1897. ...</p> <p>Application barred in the Angul District by Reg. 3 of 1913.</p> <p>S. 20 rep., in pt., Ben. Reg. 7 of 1796.</p> <p>Expld., Ben. Reg. 1 of 1801, s. 14.</p> <p>Ss. 23 to 25 rep., Ben. Reg. 17 of 1805.</p> <p>S. 58 rep., s. 65 rep. in pt., Pen. Reg. 5 of 1812, s. 3.</p> <p>S. 62 rep., Ben. Reg. 12 of 1817, as ext. by Ben. Reg. 1 of 1819, s. 4 (2).</p> <p>Ss. 1 to 3, 5 to 12, 42, 44 to 47, 61, 63, 68 to 101 rep., ss. 21, 35 rep. in pt., Act 16 of 1874.</p> <p>Ss. 16 to 18, 28, 29, 48, 56, 57, 59, 60 rep., s. 67 rep. in pt., Act 12 of 1876.</p> <p>Ss. 51 to 55, 64, 65 rep. in "the whole of the former Province of Bengal" except the town of Calcutta, the Division of Orissa and the Scheduled Districts by Act 8 of 1885. They have been repealed in Orissa by B. and O. Act 2 of 1913.</p> <p>S. 34 rep., in pt. in Orissa by B. and O. Act 2 of 1913.</p> <p>Ss. 19, 66 rep. in pt., ss. 20, 21 am., s. 33 rep., Act 1 of 1903.</p>	24

*Chronological Table of Enactments, Printed in this Volume—contd.*

1	2	3	4	5
Year	No.	Short title	Now repealed or otherwise affected in Bihar and Orissa by legislation.	Page.
<b>I.—BENGAL REGULATIONS—<i>contd.</i></b>				
17.3	11	The Bengal Inheritance Regulation, 1793.	Short title given, Act 5 of 1897 .. Application restricted— Ben. Reg. 10 of 1800. Ben. Reg. 12 of 1805, s. 36. Ss. 2 to 6 rep. in pt., Act 16 of 1874. S. 3 am., Act 12 of 1891. Application barred in the Angul District by Reg. 3 of 1913 and in the Sonthal Parganas by Reg. 3 of 1872 as amended by Reg. 3 of 1899.	39
„	19	The Bengal Revenue-free Lands (Non-Bādshāhi Grants) Regulation, 1793	Short title given, Act 1 of 1903 ... Application barred in the Angul District by Reg. 3 of 1913. Ss. 12 to 14, 16, 19 rep., Ben. Reg. 2 of 1819. Supplemented and modified. Reg. 11 of 1825. S. 10 rep. in pt., Act 10 of 1859, s. 28. S. 23 rep., Act 8 of 1868. S. 2 (2) rep. in pt., s. 18 rep., Act 16 of 1874. Ss. 21, 22, 29 to 34, 36 to 46 rep., Ben. Act. 7 of 1876. S. 4 rep. in pt., Act 12 of 1891. Ss. 2, 3, 8, 10, 15 am., ss. 25, 35 rep., Act 1 of 1903.	43
„	37	The Bengal Revenue-free Lands (Bādshāhi Grants) Regulation, 1793.	Short title given, Act 1 of 1903 ... Application barred in the Angul District by Reg. 3 of 1913. [See next page.]	60

Chronological Table of Enactments Printed in this Volume—*contd.*

1	2	3	4	5
Year	No.	Short title	How far it differs from the original	
<b>I.—BENGAL REGULATIONS—<i>contd.</i></b>				
1793	37	The Bengal Revenue-free Lands (Bādashīhi Grants) Regulation, 1793— <i>concl'd</i>	<p>ss. 7 to 9, 11, 14 rep., <i>len. Re.</i> 2 of 1819</p> <p><i>Am.</i>, <i>Ben. Re.</i> 13 of 1825, 5</p> <p>, <i>len. Reg.</i> 11 of 1825</p> <p>S. 10 rep. in pt., ss. 13, 25, of 1871, Act 16 of 1871</p> <p>ss. 16 to 18, 21, 26 to 29, 31 to 33, 35 to 41 rep., <i>ben. Act</i> 7 of 1876</p> <p>ss. 2, 3, 5, 10 <i>am.</i>, 2 (2) rep. in pt., ss. 20, 30 rep., Act 1 of 1903</p>	
„	38	The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1793	<p>Short title given, Act 5 of 1897</p> <p>Application barred in the Annapur District by Reg. 3 of 1913.</p> <p>ss. 3 to 6 rep., Act 8 of 1908</p> <p>S. 2 rep. in pt., Act 16 of 1871</p> <p>Title and 1 rep. in pt., Act 12 of 1891</p> <p>S. 2 rep. in pt., Act 1 of 1903</p>	69
1794	3	The Bengal Native Revenue-officers Regulation, 1794	<p>Short title given, Act 1 of 1906. ...</p> <p>Application barred in the Annapur District by Reg. 3 of 1913, and in the South Parganas by Reg. 3 of 1872 is amended by Reg. 3 of 1899</p> <p>Rep. (except ss. 12, 13, 16 to 20) ss. 14 rep. in pt., Act 16 of 1874</p> <p>ss. 16 to 18 rep. in pt., Act 12 of 1876.</p> <p>S. 12 rep., ss. 16, 17, 18, 20 rep. in pt. to recovery of money belonging to the Govt., <i>Ben. Act</i> 7 of 1880</p> <p>Title rep. in pt., Act 12 of 1891</p> <p>Title and ss. 16, 17, 18, 20 rep. in pt., ss. 19 rep., Act 1 of 1903</p>	71

*Chronological Table of Enactments Printed in this Volume— contd*

1	2	3	4	5
Year	No	Short title.	How repealed or otherwise affected in Bihar and Orissa by legislation.	Page.
<b>I. BENGAL REGULATIONS—<i>contd.</i></b>				
1799	5	The Bengal Wills and Intestacy Regulation, 1799.	Short title given, Act 5 of 1897 ... Application barred in the Angul District by Reg. 3 of 1913, and in the Sonthal Parganas by Reg. 3 of 1872 as amended by Reg. 3 of 1899. Ss. 5, 6 am., Ben. Reg. 5 of 1827. Ss. 2, 3 rep. in pt., Act 10 of 1858. S. 2 rep. in pt., Act 21 of 1870. Ss. 1, 2, 3, 7, 8 rep. in pt., Act 16 of 1874. S. 7 am., Act 1 of 1914. Title rep. in pt., Act 12 of 1891. Ss. 2, 3 rep. in pt., s. 7 rep. in pt. and am., Act 1 of 1903.	75
1800	8	The Bengal Revenue-free Lands Regulation, 1800.	Short title given, Act 1 of 1903 ... Application barred in the Angul District by Reg. 3 of 1913. S. 19 rep., in pt., Act 16 of 1874. Rep. (except s. 19), Ben. Act 7 of 1876. Title rep. in pt., Act 12 of 1891.	79
	10	The Bengal Inheritance Regulation, 1800.	Short title given, Act 5 of 1897 ... Application barred in the Angul District by Reg. 3 of 1913, and in the Sonthal Parganas by Reg. 3 of 1872 as amended by Reg. 3 of 1899.	81
1801	1	The Bengal Land-revenue Assessment Regulation, 1801.	Short title given, Act 1 of 1903 ... Application barred in the Angul District by Reg. 3 of 1913.	82
[See next page.]				

*Chronological Table of Enactments Printed in this Volume--contd.*

1	2	3	4	5
Year.	No.	Short title.	If repealed or otherwise altered in Part and Order of Publication	Page

I.—BENGAL REGULATIONS *contd.*

1801	1	The Bengal Land-revenue Assessment Regulation, 1801— <i>concl'd.</i>	<p>Ss. 12 13 rep, Ben. Re. 19 of 1811.</p> <p>Ss. 3, 5 to 7, 11 rep, Ben. Re. 11 of 1822.</p> <p>Ss. 1, 2, 4, 9, 15 rep, s. 8, 10 rep. in pt, Act 16 of 1874.</p> <p>S. 11 rep. in pt., Act 12 of 1876</p> <p>Title, ss. 8, 14 rep. in pt, Act 12 of 1891.</p> <p>Ss. 8, 10 rep. in pt, Act 1 of 1903.</p>	
1805	12	The Cuttack Land-revenue Regulation, 1805.	<p>Short title given, Act 1 of 1903 ...</p> <p>Am, Ben. Reg. 14 of 1825.</p> <p>S. 31 rep. in pt, Act 10 of 1840</p> <p>S. 24 rep. in pt, Act 17 of 1859, s. 28.</p> <p>S. 32 rep., Act 16 of 1861.</p> <p>Ss. 12 to 16 rep, Act 16 of 1874</p> <p>S. 30 rep. in pt., Act 12 of 1891.</p> <p>S. 36 rep. in pt., s. 37 rep, Act 11 of 1893.</p> <p>Ss. 1, 31 rep. in pt., ss. 2 to 11 rep., ss. 18, 20, 22, 26, 28, 30 am., Act 1 of 1903.</p>	98
,	13	The Cuttack Police Regulation, 1805.	<p>Short title given, Act 1 of 1903 ...</p> <p>S. 2 rep. in pt., s. 12 rep., Act 16 of 1874.</p> <p>[See next page.]</p>	99

*Chronological Table of Enactments Printed in this Volume—contd.*

1	2	3	4	5
Year.	No.	Short title	How repealed or otherwise affected in Bihar and Orissa by legislation.	Page.
<b>L.—BENGAL REGULATIONS—contd.</b>				
1805	13	The Cuttack Police Regulation, 1805— <i>concl'd.</i>	S. 13 rep. in pt., Act 12 of 1876. S. 13 rep. in pt., Act 11 of 1893. Title and ss. 1, 4 (4) rep. in pt., ss. 3, 4 (4) am., ss. 4 (3), 5, 6, 7, 10, 11 rep., Act 1 of 1903.	
1806	11	The Bengal Troops Transport and Travellers' Assistance Regulation, 1806.	Short title given, Act 5 of 1897 ... Supplemented, Ben. Reg. 6 of 1825. S. 20 rep., Ben. Reg. 2 of 1811. Rep. as to <i>coolies</i> , Ben. Reg. 3 of 1820. Ss. 9, 11, 12 rep., Act 16 of 1874. Ss. 10, 13 to 19 rep., Act 12 of 1876. Title and ss. 1, 8 rep. in pt., Act 12 of 1891. Ss. 2, 7, rep. in pt., s. 4 (3) am., Act 5 of 1897.	102
1810	19	The Bengal Charitable Endowments, Public Buildings and Escheats Regulation, 1810.	Short title given, Act 1 of 1903 ... Application barred in Angul by Reg. 3 of 1913, and in the Sonthal Parganas by Reg. 3 of 1872 as amended by Reg. 3 of 1899. Rep. as to endowments for the support of Mosques, Hindu temples or other religious purposes, Ben. Reg. 17 of 1813, s. 16. Rep. as to provision by Board of Revenue for due repair of public edifices of the description of bridges, <i>sarais</i> and <i>kuttras</i> , Act 20 of 1863. Title and ss. 1, 2, 3, 5, 6, 7, 8, 10, 14, 15 rep. in pt., ss. 3, 4, 8, 9, 12, 13 am., Act 1 of 1903. S. 7 am., B. & O. Act 3 of 1916.	109

## Chronological Table of Enactments Printed in this Volume contd.

1	2			
Year.	No.	Short title	How repealed or otherwise collected in Bihar and Orissa by legislation	Page
I.—BENGAL REGULATIONS—contd.				
1812	5	The Bengal Land Revenue Sales Regulation, 1812.	Short title given, Act 1 of 1903 ... Application barred in the Angul District by Reg. 3 of 1913. S. 2 expld., Ben. Reg. 15 of 1812, s. 2. S. 28 rep. in pt., Ben. Reg. 12 of 1824. S. 28 residue rep., Ben. Reg. 7 of 1830. Ss. 5 to 23 rep., Act 10 of 1859. S. 1 rep., ss. 2, 3, 4, 26, 27 rep. in pt., Act 16 of 1874. Ss. 24, 25 rep. in pt., Act 12 of 1876. Ss. 2, 3, 4, 26, 27 rep., in the whole of the former Province of Bengal "except the town of Calcutta, the Division of Orissa and the Scheduled Districts" by Act 8 of 1885. Repealed in Orissa by B. & O. Act 2 of 1913. S. 25 am., ss. 26, 27 rep. in pt., Act 1 of 1903.	114
"	11	The Bengal Foreign Immigrants Regulation, 1812.	Short title given, Act 5 of 1897 ... S. 5 rep. in pt., Act 16 of 1874. "Local Government," substituted for "Governor-General in Council" s. 5 (2) am., Act 5 of 1897. S. 2 am., Act 13 of 1898, s. 16. S. 5 am., Act 1 of 1903.	117
"	18	The Bengal Leases and Land Revenue Regulation, 1812.	Short title given, Act 1 of 1903 ... Application barred in the Angul District by Reg. 3 of 1913. S. 3 (1) rep., Act 16 of 1874. [See next page.]	121

*Chronological Table of enactments Printed in this Volume—contd.*

1	2	3	4	5
Year.	No.	Short title	How repealed or otherwise affected in Bihar and Orissa by legislation.	Page.

*I.—BENGAL REGULATIONS—contd.*

1812	18	The Bengal Leases and Land Revenue Regulation, 1812— <i>concl'd.</i>	Rep. except in the Orissa Division and the Scheduled Districts by Act 8 of 1885.  S. 3 (2) rep. in pt., Act 12 of 1891.  S. 1 rep. in pt., Act 1 of 1903.	
1814	29	The Bengal Ghatwali Lands Regulation, 1814.	Short title given, Act 1 of 1903 ... S. 3 rep. in pt., s. 5 am., Act 1 of 1903.	123
1816		The Bengal Kánungos Regulation, 1816.	Short title given, Act 1 of 1903 ...	126

			<p>... in the Angul District by Reg. 3 of 1913, and in the Sonthal Parganas by Reg. 3 of 1872 as amended by Reg. 3 of 1899.</p> <p>Ext., Ben. Reg. 1 of 1819, s. 4 (J)</p> <p>Ss. 1, 3 rep. in pt., Act 16 of 1874.</p> <p>Ss. 5, 11 am., s. 10 rep. in pt., Act 1 of 1903.</p>	
1817	12	The Bengal Patwáris Regulation, 1817.	<p>Short title given, Act 1 of 1903 ...</p> <p>Application barred in the Angul District by Reg. 3 of 1913.</p> <p>Ext., Ben. Reg. 1 of 1819, s. 4 (2).</p> <p>S. 32 supplemented, Act 20 of 1848.</p> <p>Ss. 2, 4, 5, 6 rep., ss. 9, 11, 27, 31, 32, 33 rep. in pt., Act 16 of 1874.</p> <p>Ss. 8, 13, 15, 16, 17, 30, 33 rep. in pt., ss. 26, 28 rep., Act 12 of 1876.</p> <p>Ss. 31, 35 am., s. 32 rep. in pt., Act 12 of 1891.</p> <p>Title and ss. 1, 28, 27, 29, 30 rep. in pt., s. 18 am., Act 1 of 1903.</p>	1



Chronological Table of Enactments Printed in this Volume—*contd.*

1	2	3	4	5
Year.	No.	Short title	How repealed or otherwise affected by Bill and Order in Session	Page

I.—BENGAL REGULATIONS—*contd.*

1817	20	The Bengal Police Regulation, 1817.	<p>Short title given, Act 1 of 1905. ...</p> <p>Application barred in the Angul District by Reg. 3 of 1913, and in the Sonthal Parganas by Reg. 3 of 1872 as amended by Reg. 3 of 1892.</p> <p>Forms 2, 3, 8, 14 rep., Ben. Reg. 7 of 1829.</p> <p>S. 30 (1) rep., Act 18 of 1835.</p> <p>S. 27 rep., Act 10 of 1859.</p> <p>Ss. 9, 12 to 20, 22 to 26 rep., Act 17 of 1862.</p> <p>S. 21 rep. locally, Ben. Act 6 of 1870, s. 2, as mod. by Ben. Act 1 of 1871, s. 1, in every place to which the Chota Nagpur Rural Police Act, 1914, applies, B. and O. Act 1 of 1914, s. 38.</p> <p>Ss. 1 to 8, 10, 11, 29 (10), (11), 30 (3), (6), 31, 33, 34 rep., ss. 29 (1) to (4), (9), 30 (2) rep. in pt., Act 16 of 1871.</p> <p>S. 29 (5) to (5) rep., Act 8 of 1875.</p> <p>Ss. 28, 32 rep., ss. 21 (10), 29 (1) to (4) rep. in pt., Act 12 of 1876.</p> <p>S. 21 rep. locally, Ben. Act 5 of 1887, s. 38.</p> <p>Title and s. 30 (heading) rep. in pt., s. 23 [heading and cl. (12)] am. Forms 1, 4, 5, 7, 9 to 12, 15 to 21 rep., Act 12 of 1891.</p>	112
1818	3	The Bengal State-Prisoners Regulation, 1818.	<p>Short title given, Act 5 of 1897 ...</p> <p>Supplemented, Acts 34 of 1850 and 3 of 1858.</p> <p>Ss. 4, 9 rep. in pt., s. 8 rep., Act 16 of 1874.</p> <p>S. 9 am., Act 12 of 1891.</p> <p>S. 4 rep. in pt., Act 1 of 1903.</p>	151

*Chronological Table of Enactments Printed in this Volume— contd*

Year	No.	Short title	How and by whom collected in Bihar and Orissa Legislation	Page
<b>BENGAL REGULATIONS—<i>contd</i></b>				
1819	1	The Penal and Criminal and Law and Regulation, 1819.	Short title given, Act 1 of 1903 Application barred in the Angul District by Reg. 3 of 1913 Ss. 1, 2, 3, rep., Act 2 of 1873. Title and s. 4 (5) rep. in pt., Act 2 of 1901 S. 11, 12, 13 (3), 14, 17 ext., Ben. Reg. 7 of 1822, s. 19 (2). Ss. 5, 6, 7, 10, 11, 13, 15, 22 modified in Ben. Reg. 9 of 1825, s. 5. Am., Ben. Reg. 14 of 1825 s. 6. Ss. 22 to 24 am., Ben. Reg. 3 of 1828 s. 10 S. 30 rep., Ben. Act 7 of 1862 S. 19 (3) rep., Act 12 of 1873 Ss. 2, 21 (2), 25, 27 rep., ss. 19 (1), 20, 21, 23 rep. in pt., Act 1 of 1874 Ss. 11, 19 rep. in pt., Act 12 of 1876 S. 20 rep., ss. 4, 12 rep. in pt., ss. 6, 12, 26 (2) am., Act 12 of 1891. S. 3 (1) rep. in pt., ss. 13 (3), 14, 21 (2) am., Act 1 of 1903.	153
		The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819	Short title given, Act 1 of 1903 Application barred in the Angul District by Reg. 3 of 1913 Ss. 11, 12, 13 (3), 14, 17 ext., Ben. Reg. 7 of 1822, s. 19 (2). Ss. 5, 6, 7, 10, 11, 13, 15, 22 modified in Ben. Reg. 9 of 1825, s. 5. Am., Ben. Reg. 14 of 1825 s. 6. Ss. 22 to 24 am., Ben. Reg. 3 of 1828 s. 10 S. 30 rep., Ben. Act 7 of 1862 S. 19 (3) rep., Act 12 of 1873 Ss. 2, 21 (2), 25, 27 rep., ss. 19 (1), 20, 21, 23 rep. in pt., Act 1 of 1874 Ss. 11, 19 rep. in pt., Act 12 of 1876 S. 20 rep., ss. 4, 12 rep. in pt., ss. 6, 12, 26 (2) am., Act 12 of 1891. S. 3 (1) rep. in pt., ss. 13 (3), 14, 21 (2) am., Act 1 of 1903.	161
		The Pungal Patni Taluks Regulation, 1819.	Short title given, Act 5 of 1897 Application barred in the Angul District by Reg. 3 of 1913	177

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Year.	No.	Short title.	How reported or otherwise affected in later and Ours by legislation	Page
I—BENGAL REGULATIONS— <i>contd.</i>				
1819	8	The Bengal Patni Taluk Regulation, 1819— <i>contd.</i>	Supplemented and application of ss. 9, 11, 13, 15 and 17 ext., Ben. Reg. 1 of 1820.  S. 9 rep. in pt. and supplemented, Act 25 of 1850.  Supplemented, Act 6 of 1853.  Ss. 18, 19 rep., Act 10 of 1859.  Am., application of s. 13 ext., s. 16 rep., Ben. Act 8 of 1865.  Ss. 2, 3 (3), 8 (2), 9, 15 (2) rep. in pt., Act 16 of 1874.  Title and preamble rep. in pt., Act 12 of 1891.  Ss. 9, 14 (2) am., s. 17(8) rep. in pt., Act 1 of 1903.	
1820	1	The Bengal Patni Taluk Regulation, 1820.	Short title given, Act 5 of 1897 ...  Application barred in the Angul District by Reg. 3 of 1913.  Am., Ben. Act 8 of 1865, s. 3.  S. 2 am. and rep. in pt., Act 1 of 1903.	194
1821	4	The Bengal Land-reve- nue (Assistant Collec- tors) Regulation, 1821.	Short title given, Act 1 of 1903 ...  Application barred in the Angul District by Reg. 3 of 1913, and in the Sonthal Parganas by Reg. 3 of 1872 as amended by Reg. 3 of 1899.  Ss. 2, 3, 8 (4) rep., Act 12 of 1873.  Ss. 7, 8 (3) rep. in pt., Act 16 of 1874.  Ss. 1, 8 rep. in pt., ss. 4 to 6 rep., Act 12 of 1876.  Title rep. in pt., Act 12 of 1891.  Ss. 7, 8 am., Act 1 of 1903.	196

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Year	No	Short title	How and by what law affected in Bengal in O. S. 1115 1874	Page

I — BENGAL REGULATIONS—*contd.*

1822	7	The Bengal Land-revenue Settlement Regulation, 1822.	<p>Short title given, Act 1 of 1903 ...</p> <p>Portions ext., Ben. Reg. 9 of 1825, ss. 2, 3, 5 (9).</p> <p>Rep. in pt., s. 5 expld, s. 33 supplemented, Ben. Reg. 9 of 1833, ss. 2, 3, 5 to 11</p> <p>S. 23 (3) rep. in pt., Act 8 of 1835.</p> <p>S. 31 (2), rep in pt., Act 25 of 1837.</p> <p>Ext., Act 31 of 1858.</p> <p>S. 22 rep., ss. 20 <i>et seq.</i> rep. in pt., Act 10 of 1859.</p> <p>Ext., Act 11 of 1859, s. 60.</p> <p>S. 25 rep., Act 20 of 1865.</p> <p>S. 29 supplemented, Ben Act 3 of 1868.</p> <p>Ss. 2 (1) to (5) rep., ss. 2 (6), 5 (2), 6 (1), 7 (1), 9 (2), 12 (2), 15, 16, 17, 20 (2), 23 (3), 29 (5), 30, 31 (2), 33 (1) rep. in pt., Act 16 of 1874.</p> <p>S. 27 rep., s. 29 (1), (5) rep. in pt., Act 12 of 1876.</p> <p>Title rep in pt., Act 12 of 1891.</p> <p>Title and ss 1, 7 (1), (6), 29 (1), 31 (2), 33 (1), 35 rep. in pt., ss. 2 (6), 3, 5, 6 (2), 7 (1), 8, 9 (3), 10 (1), (3), (9), 13, 16, 17, 20, 23 (1), 24 (2), 26, 32, 35 am., ss. 5 (1), 6 (4), 7 (4) rep., Act 1 of 1903.</p> <p>S. 10 a m., B. &amp; O. Act 3 of 1916</p>	202
„	11	The Bengal Government Indemnity Regulation, 1822.	<p>Short title given, Act 1 of 1903 ...</p> <p>Rep. (except ss. 2, 36, 38), Act 12 of 1841.</p> <p>[See next page.]</p>	237

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1822	11	The Bengal Government Indemnity Regulation, 1822— <i>concl'd.</i>	Title rep. in pt., Act 12 of 1891. S. 2 rep., Act 1 of 1903. S. 36. Application barred in the Angul District by Reg. 3 of 1913. Ss. 36 and 38. Application barred in the Sonthal Parganas by Reg. 3 of 1872 as amended by Reg. 3 of 1899.	
1823	6	The Bengal Indigo Contracts Regulation, 1823.	Short title given, Act 1 of 1903 .. Application barred in the Angul District by Reg. 3 of 1913, and in the Sonthal Parganas by Reg. 3 of 1872 as amended by Reg. 3 of 1899. Supplemented, Ben. Reg. 5 of 1830. Supplemented, and s. 5 (3) rep., Act 10 of 1836. Ss. 7, 8 rep., Act 7 of 1870. Ss. 3 (1), 6 rep. in pt., Act 16 of 1874. Ss. 1, 3 (7) rep. in pt., Act 12 of 1876. Preamble and s. 3 (4), (5), (6), (7), (9) rep. in pt., s. 6 am., Act 12 of 1891. S. 4 (2) rep. in pt., Act 1 of 1903.	240
„	7	The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1823.	Short title given, Act 5 of 1897 ... Application barred in the Angul District by Reg. 3 of 1913. Ss. 2 (3), 5 rep., s. 8 rep. in pt., Act 16 of 1874. Ss. 3, 6, 8 am., Act 5 of 1897. S. 6 rep. in pt., s. 7 rep., Act 1 of 1903.	246
1825	6	The Bengal Troops Transport Regulation, 1825.	Short title given, Act 5 of 1897 ... S. 5 rep. in pt., Act 12 of 1876. Ss. 2, 4, 5 rep. in pt., Act 1 of 1903.	249

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1825	9	The Bengal Land-revenue Settlement Regulation, 1825.	Short title given, Act 1 of 1913 .. Application barred in the Angul District by Reg. 3 of 1913, and in the Sonthal Parganas by Reg. 3 of 1872 as amended by Reg. 3 of 1899. Ext., Act 11 of 1859, s. 60 S. 5 (9) rep. in pt., Act 20 of 1865. Preamble and ss. 2 (1), 3, 8 rep. in pt., s. 9 rep., Act 12 of 1891. Ss. 3, 4, 5 (9), 6, 8 am., s. 5 (20) rep. in pt., Act 1 of 1903. S. 4 am. and rep. in pt., B. & O. Act 3 of 1916.	253
„	11	The Bengal Alluvion and Diluvion Regulation, 1825.	Short title given, Act 5 of 1897 . Application barred in the Angul District by Reg. 3 of 1913. Supplemented, Ren. Act 4 of 1868. S. 1 (1) rep. in pt., Act 8 of 1885, and in Orissa by B. and O. Act 2 of 1913 S. 5 rep. in pt., Act 1 of 1903.	263
„	13	The Bengal Land-revenue Settlement (Resumed Kanungos and Revenue-free Lands) Regulation, 1825.	Short title given, Act 1 of 1903 ... Application barred in the Angul District by Reg. 3 of 1913. S. 2 rep. in pt., ss. 4, 5 rep. in pt. and am., Act 12 of 1891. Ss. 2, 3, 5, am., Act 1 of 1903. Ss. 2, 3 rep. locally in Orissa, B. & O. Act 2 of 1913, s. 2.	267
„	14	The Bengal Revenue-free Lands Regulation, 1825.	Short title given, Act 1 of 1903 ... Application barred in the Angul District by Reg. 3 of 1913. S. 5 rep., Act 12 of 1874. S. 6 rep. in pt., Act 16 of 1874. Title and ss. 1, 2, 3 (2), (5), (7), 4 rep. in pt., ss. 1, 2, 3, 6 am., Act 1 of 1903.	271

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1827	3	The Bengal Corruption and Extortion Regulation, 1827.	Short title given, Act 5 of 1897 ... Application barred in the Angul District by Reg. 3 of 1913, and in the Sonthal Parganas by Reg. 3 of 1872 as amended by Reg. 3 of 1899. Rev. (except s. 5), Act 16 of 1874. S. 5 rep. in pt., Act 12 of 1876. S. 5 am., Act 1 of 1903.	277
	5	The Bengal Attached Estates Management Regulation, 1827.	Short title given, Act 5 of 1897 ... Ss. 2, 3, 4 rep. in pt., Act 16 of 1874. S. 2 rep. in pt., s. 3 am., Act 1 of 1903. Application barred in the Angul District by Reg. 3 of 1913, and in the Sonthal Parganas by Reg. 3 of 1872 as amended by Reg. 3 of 1899.	278
1828	3	The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1828.	Short title given, Act 1 of 1903 ... Application barred in the Angul District by Reg. 3 of 1913, and in the Sonthal Parganas by Reg. 3 of 1872 as amended by Reg. 3 of 1899. S. 9 rep., Act 12 of 1873. S. 10 (4), (5) rep. in pt., s. 11 (1) rep., Act 16 of 1874. Title and ss. 1, 10 (2), 12, 13 (1), (2) rep. in pt., ss. 2 to 8 rep., ss. 10 (2), (3), 13 (1) am., Act 1 of 1903. S. 13 (2) rep., Ben. Act 1 of 1905.	281
	4	The Bengal Land-revenue Settlement Regulation, 1828.	Short title given, Act 1 of 1903 ... Application barred in the Angul District by Reg. 3 of 1913, and in the Sonthal Parganas by Reg. 3 of 1872 as amended by Reg. 3 of 1899. S. 2 (1), (2), (3) rep., Ben. Reg. 9 of 1833, s. 4. S. 2 (4) rep. in pt., Act 16 of 1874. S. 1 rep., s. 2 (4) am. and rep. in pt., Act 1 of 1903.	287

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1829	1	The Bengal Revenue Commissioners Regulation, 1829.	Short title given, Act 1 of 1903  Application barred in the Angul District by Reg. 3 of 1913 and in the Sonthal Parganas by Reg. 3 of 1872 as amended by Reg. 3 of 1899. S. 9(2) rev. in pt., Ben. Reg. 6 of 1831, s. 8. S. 9(2) residue rep., Ben. Reg. 10 of 1831, s. 4. Ss. 3, 5 rep., Act 16 of 1874 Title and ss. 1, 2 rep. in pt. ss 6 to 8, 9(1), 10 rep., Act 1 of 1903.	289
"	17	The Bengal Sati Regulation, 1829.	Short title given, Act 5 of 1897  Ss. 4, 5 rep. Act 17 of 1862.	293
1830	5	The Bengal Indigo Contracts Regulation, 1830.	Short title given, Act 1 of 1903 ..  S. 3 rep., Act 16 of 1835.  S. 4 rep., Act 3 of 1857.  S. 2 rep., Act 8 of 1868.  Title and preamble rep., in pt., Act 12 of 1891. Application barred in Angul, Reg. 3 of 1913, and in the Sonthal Parganas Reg. 3 of 1872 as amended by Reg. 3 of 1899.	296
1833	9	The Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1833.	Short title given, Act 1 of 1903 ..  Ss. 14, 15 rep., Act 10 of 1859.  S. 19 rep., Act 10 of 1873.  S. 4 rep., Act 16 of 1874  Title and s. 1 am. and rep. in pt., s 2 rep., ss 3, 8, 24, 25 rep. in pt., ss 12, 13, 16 am., Act 1 of 1903. Ss. 17, 18 and 25 rep., Act 10 of 1914.  Application barred in Angul, Reg. 3 of 1913, and in the Sonthal Parganas, Reg. 3 of 1892 as amended by Reg. 3 of 1899.	298



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Year.	No.	Short title.	How reported or otherwise affected in Part I and Owing to Revolutions	Page
II.—LOCAL ACTS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL				
1836	10	The Bengal Indigo Contracts Act, 1836.	Short title given, Act 1 of 1903 s. 5 rep., Act 8 of 1868. S. 1 rep., Act 11 of 1870. Formal word in ss. 2, 3, 4 rep., Act 16 of 1874. Application barred in Angul by Reg. 3 of 1913, and in the Southal Parganas by Reg. 3 of 1872 as amended by Reg. 3 of 1899.	302
,	21	The Bengal Districts Act, 1836.	Short title given, Act 1 of 1903 Supplemented, Ben. Act 1 of 1864. Formal words rep., Act 16 of 1874. Am. and rep. in pt., Act 1 of 1903. Am. Act 32 of 1920 Application barred in Angul, Reg. 3 of 1913.	304
1841	12	The Bengal Land-revenue Sales Act, 1841.	Short title given, Act 1 of 1903 Ss. 3 to 35 rep., Act 1 of 1845. S. 1 rep., Act 14 of 1870 S. 1 rep. in pt., Act 1 of 1871. Application barred in Angul, Reg. 3 of 1913	305
1847	9	The Bengal Alluvion and Diluvion Act, 1847.	Short title given, Act 1 of 1903 Supplemented, and s. 7 rep., Ben. Act 4 of 1868. S. 8 rep., Act 14 of 1870. Formal words in ss. 2, 3, 5, 6 and 9, and part of s. 4 rep., Act 16 of 1874. S. 1 rep. in pt., Act 12 of 1891. Ss. 4, 5, 6, 9 rep. in pt., Act 1 of 1903. Application barred in Angul, Reg. 3 of 1913.	306

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1843	20	The Bengal Landholders' Attendance Act, 1843.	Short title given, Act 1 of 1903 ... Application barred in Angul, Reg. 3 of 1913.	309
1850	25	The Forfeited Deposits Act, 1850.	Short title given, Act 5 of 1897 ... S. 1 rep. Act 14 of 1870.	311
			Title and preamble rep. in pt., Act 12 of 1891. Application barred in Angul, Reg. 3 of 1913.	
1853	6	The Rent Recovery Act, 1853.	Short title given, Act 5 of 1897 ... S. 10 rep., Ben. Act 8 of 1865. S. 9 rep., Act 12 of 1873. Preamble rep. in pt., Act 12 of 1891. Application barred in Angul, Reg. 3 of 1913.	312
1855	32	The Bengal Embankment Act, 1855.	Short title given, Act 1 of 1903 ... S. 1 rep., Act 14 of 1870. Rep. (except in the Orissa Division), Ben. Act 6 of 1873. S. 18 rep. in pt., s. 19 rep., Act 16 of 1871. S. 21 rep. in pt., Act 1 of 1903. Application barred in Angul by Reg. 3 of 1913, and in the Sonthal Parganas by Reg. 3 of 1872 as amended by Reg. 3 of 1899.	317
"	37	The Sonthal Parganas Act, 1855.	Short title given, Act 1 of 1903 ... S. 6 rep., Act 14 of 1870. S. 1 (1) rep. in pt., Act 12 of 1891. S. 3 rep. in pt., ss. 4, 5 rep., Reg. 5 of 1893. supplemented, Reg. 5 of 1893. New Sch. substituted by Act 10 of 1857.	328

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1857	10	The Sonthal Parganas Act, 1857.	Short title given, Act 1 of 1903 .. 342 S. 1 rep. in pt., Act 14 of 1870.
„	13	The Opium Act, 1857.	Short title given, Act 1 of 1903 . 344 S. 1 rep., Act 14 of 1870. S. 2 rep., Act 1 of 1878 Preamble rep. in pt., Act 12 of 1891 Ss. 3 and 6 subs., ss. 4, 5, 7 to 16 and ss. 21 to 23, 26, 30 and 31 am., and s. 22 added, Act 27 of 1925. Application barred in Angul, Reg. 3 of 1913.
1858	31	The Bengal Alluvial Land Settlement Act, 1858.	Short title given, Act 1 of 1903 ... 343 S. 3 rep., Act 1 of 1903. Application barred in Angul, Reg. 3 of 1913.
1859	5	The Bengal Ghatwali Lands Act, 1859.	Short title given, Act 1 of 1903 345
„	11	The Bengal Land-revenue Sales Act, 1859.	Short title given, Act 1 of 1903 ... 349 Supplemented, and ss. 45, 50 rep., Ben. Act 3 of 1862. Supplemented, s. 6 rep. in pt. and am., s. 25 rep., s. 27 am., Ben. Act 7 of 1868. S. 1 rep., Act 14 of 1870. S. 17 rep. in pt., Ben. Act 3 of 1881 S. 4 rep., s. 53 rep. in pt., Act 12 of 1891. Supplemented, B. & O. Act 4 of 1911.

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1870	11 The General Land-revenue Sales Act, 1870	S. 18 (proviso) rep. in pt. s. 22 rep. in pt. and am., ss. 22, 32, 33 am., Sch. B rep., Act 1 of 1903. Ss. 19, 26, 32 and 40 am., Act 4 of 1914 Application barred in Angul, Reg. 3 of 1913.	
1876	The Chota Nagpur Encumbered Estates Act, 1876.	Ss. 2, 3, 4, 7, 12, 17, 19 am., Act 5 of 1884. Ss. 2, 3, 5, 7, 9, 10, 12, 19 am., ss. 2A, 10A, 12A, 14A, 19A, 19B, 21A, 21B ins., ss. 18, 18A, 18B subs., ss. 4, 23 rep. in pt. and am., s. 24 rep., Ben. Act 3 of 1909. S. 2B ins., s. 12 am., Ben. Act 4 of 1911. S. 19 rep. in pt. and am., Act 4 of 1914. S. 11 rep. in pt., ss. 11A, 11B ins., s. 12 am., s. 18 am., B. & O. Act 8 of 1922. S. 21B am., B. & O. Act 2 of 1921.	374
1881	2 The Bengal Cess (Amendment No. 1) Act, 1881	Short title given, Act 1 of 1903 ... Application barred in Angul, Reg. 3 of 1913, and in the Sonthal Parganas, Reg. 3 of 1872 as amended by Reg. 3 of 1899.	390
	25 The Banki Laws Act, 1881.	Ss. 3 rep., 4 rep. in pt., Act 12 of 1891	391
1884	5 The Chota Nagpur Encumbered Estates (Amendment) Act, 1884.	Short title given, Act 1 of 1903 ... Ss. 8 (a), 10 rep., Act 12 of 1891. Rep. in pt., Ben. Act 3 of 1909.	392

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1885	8	The Bengal Tenancy Act, 1885.	<p>Ss. 12 (2), 13 (f), (2) am., Act of 198 . . . 102</p> <p>Ss. 39, 101, 112 rep. in pt., ss 101, 105 am., Act 38 1920.</p> <p>Supplemented, Ben. Act 3 of 1895, ss 20, 28 to 32, 36 (c).</p> <p>Ss. 30 (a), 31, 79 (6), 52, Ch X, and s. 119 am., ss. 31A, 31B ins., Ben Act 3 of 1898.</p> <p>Certain transfers under ss. 12, 13, 17 or 18 validated, provisions of these sections as to fees am., s. 106 am., Ben. Act 1 of 1903.</p> <p>Ss. 1 (3), 3 (5), (10), 12 (2), (3), 13 (f), (2), 15, 16, 19, 22, 40, 52, 58, 67, 69, 75, 101 (2), 102, Ch. X, Pt II (heading), ss. 104, 106, 107, 108, 109, 109A, 111, 112, Ch. XI (heading), ss. 116, 120, 148, 153, 158 (f), 161, 168 (f), 169 (f), 170, 174 (2), 178, 189, 192, Sch. III am.; ss. 14, 45 rep., Ch IVA (ss. 18A to 18C), ss. 40A, 102A, 105A, 108A, 109B, 109C, 111B, 115A, 117A, 117B, 148A, 153A, Ch. XIII A (s. 158A), ss. 158B, 180A, 188A ins.; s. 114 rep. in pt. and am.; ss. 149, 150 rep. in pt. (in Western Bengal including Bihar), ss. 83, 104H (g), 105 (2), am.; ss. 103B, 109D, ins. (in Western Bengal), Ben. Act 1 of 1907.</p> <p>New Ch. XIII A ins., ss. 158 B, 167, 171 (f) and 172 am., B. and O. Act 4 of 1914.</p> <p>Ss. 40, 56, 57, 80 and 103 am., B. &amp; O. Act 3 of 1916.</p> <p>S. 189A ins., B. &amp; O. Act 9 of 1920.</p> <p>Application barred in Angul, Reg. 3 of 1913.</p> <p>Rep. in Orissa Division, B. &amp; O. Act 2 of 1913.</p>	
1886	8	The Bengal Tenancy (Amendment) Act, 1886.	<p>Short title given, Act 1 of 1903 . . . 511</p>	

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1887	12	The Bengal Act and in Civil Courts Act 1887	Short title given, Ben Act 4 of 1906, s 2 S 23, rep, in pt, Acts 7 of 1899 and 9 of 1890 S. 2 rep in pt Act 12 of 1891. Ss 1 (1) 25 am, s 8 (1) rep in pt, Act 16 of 1911 Ss 4 6 (1), 7 (2) am., s 5 rep and proviso added to ss 14 (2), 25 and 34 (1), Act 4 of 1914 S. 1 Subs. s. 15 am, s. 36 rep in pt Act 34 of 1920. S. 14 am., B & O. Act 1 of 1922 Application barred in Angul, Reg 3 of 1913	514
1902	1	The Court of Wards Act (Amend.) Amend- ment Act, 1892	Short title given, Act 5 of 1897 S. 9 rep, Act 5 of 1897 S. 1 rep, in pt, Act 1 of 1903 Ss 5, 11 vnt rep.— (in Western Bengal including Bihar and Orissa), Ben. Act 1 of 1906, ss 2, 6	527
„	5	The Bengal Military Police Act, 1892	Application barred in Angul, Reg. 3 of 1913	529
1893	2	The Pargah Estate Act, 1893	S. 1 rep, in pt, Act 1 of 1903 ..	536
„	11	The Tributary Mahals of Orissa Act, 1893.	Preamble and s. 1 rep. in pt., s 2 and Sch. rep, Act 1 of 1903	538
[1] 1897	5	The Amending Act, 1897	.....	540

[1] For details as to how this Act has been repealed or otherwise affected by subsequent legislation see Chronological Table appended to the Unrepealed General Acts, 1837-97, Ed 1928.

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[1] 1903	1	The Amending Act, 1903.	.....	616
1908	11	The Assam Labour and Emigration (Amendment) Act, 1908.	.. ...	641
1911	1	The Opium (Amendment) Act, 1911.	.....	642
"	16	The Bengal, Agra and Assam Civil Courts (Amendment) Act, 1911.	.....	643
1912	7	The Bengal, Bihar and Orissa and Assam Laws Act, 1912.	S. 3 rep. in pt., Act 38 of 1920 ... S. 4. Rep. B. & O. Act 1 of 1913.	644
[*] 1914	4	The Decentralization Act, 1914.	.....	651
[2] "	10	The Repealing and Amending Act, 1914.	....	655
1915	8	The Assam Labour and Emigration (Amendment) Act, 1915.	Sch. am., Act 11 of 1915 ... Supplemented, B. & O. Acts 2 of 1918, 1 of 1922 and 3 of 1923.	657
1917	16	The Patna University Act, 1917.	Ss. 5, 7 am., B. & O. Act 1 of 1922. S. 5 am., s. 8A ins., B. & O. Act 8 of 1923.	660
[*] 1920	38	The Devolution Act, 1920.	. ...	670

[1] For details as to how this Act has been repealed or otherwise affected by subsequent legislation see the Chronological Table appended to the Unrepealed General Acts, 1495-1909, Ed. 1925.

[2] For details as to how this Act has been repealed or otherwise affected by subsequent legislation see *ibid.*, 1914-1920, Ed. 1925.

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1922		The Ranchi Mental Hospital Act, 1922		679
1923		The Malkharoda and Gaontia Villages Laws Act, 1923.		687
1925	27	The Opium (Amendment) Act, 1925.	S. 4 rep., Act 12 of 1927	691
1927	31	The Assam Labour and Emigration (Amendment) Act, 1927.		694
1930		The Dangerous Drugs Act, 1930.		695

## IV.—REGULATIONS MADE UNDER THE GOVERNMENT OF INDIA ACT.

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1886	2	The Sonthal Parganas Rent Regulation, 1886.	Preamble and s. 22 (1) rep. in pt., ss. 1 (2), 5 rep., Act 1 of 1903. Ss. 19A to 19F., 25A ins., Reg. 3 of 1907. S. 28 virt. rep., Reg. 3 of 1908.	727



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# THE BIHAR AND ORISSA CODE.

## VOLUME I.

### BENGAL REGULATIONS, LOCAL ACTS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL, LOCAL ACTS OF THE INDIAN LEGISLATURE AND REGULATIONS MADE UNDER THE GOVERNMENT OF INDIA ACT.

#### PART I. -BENGAL REGULATIONS IN FORCE IN THE PROVINCE OF BIHAR AND ORISSA.

#### BENGAL REGULATION 1 OF 1793.

(THE BENGAL PERMANENT SETTLEMENT REGULATION, 1793 )

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# BENGAL REGULATION 1 OF 1793.

(THE BENGAL PERMANENT SETTLEMENT REGULATION, 1793)[<sup>1</sup>]

(1st May, 1793.)

## A Regulation for enacting into a Regulation certain Articles of a Proclamation bearing date the 22nd March, 1793.

1. The following articles of the Proclamation relative to the limitation of the public demand upon the lands, addressed by the Governor General in Council to the *zamindars*, independent *talukdars* and other actual proprietors of land paying revenue to Government, in the Provinces of [Bengal,] Bihar and Orissa, are hereby enacted into a Regulation, which is to have force and effect from the 22nd March, 1793, the date of the Proclamation. Preamble.

### PROCLAMATION.

2. *Article I.*—In the original Regulations for the decennial settlement of the public revenues of [Bengal,] Bihar and Orissa, passed for Decennial settlement declared conditionally permanent by original Regulations.

[<sup>1</sup>] **SHORT TITLE.**—This short title was given by the Amending Act, 1897 (5 of 1897), Sch. III. *see post*, p. 544.

**LOCAL EXTENT.**—This Regulation was passed for the whole of the former Province of Bengal—*see ss. 1 to 3.*

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed in General Acts, 1873-86, Ed. 1928, p. 48), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 3, to be in force in the districts of Hazaribagh and Manbhum, and Pargana Dhalbhum, in the District of Singhbhum, in the Chota Nagpur Division, *see Vol. IV, Part III.*

The Regulation is in force in the Sonthal Parganas, *vide Vol. IV, Part IV.*

The application of the regulation is barred in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 768.

**OTHER ENACTMENTS RELATING TO LAND REVENUE.**—For a comprehensive view of the several enactments relating to land-revenue which are printed in this Code, *see* the head "Land revenue" and cross-references therefrom, in the Index at the end of Vol. IV. Other enactments on the subject which are in force in Bihar and Orissa are :—

- |   |   |
|---|---|
| (1) the Property in Land Act, 1837 (4 of 1837);   | } printed in General Acts, 1834-72, Ed. 1928. |
| (2) the Landholders' Public Charges and Duties Act, 1853 (2 of 1853);   |   |
| (3) the Waste Lands (Claims) Act, 1863 (23 of 1863);  |   |
| (4) the Land Improvement Loans Act, 1883 (19 of 1883) (exemption from land-revenue of improvements made with aid of loans granted by the Government); | ditto, 1873-86, Ed. 1928.                     |
| (5) the Revenue Recovery Act, 1890 (1 of 1890);   | ditto, 1887-97, Ed. 1928.                     |
| (6) the Code of Civil Procedure (Act 5 of 1908), s. 5 (application of the Code to Revenue Courts).  |   |

(Secs. 3-5.)

those Provinces, respectively, on [the 18th September, 1789,] the 25th November, 1789, and the 10th February, 1790, it was notified to the proprietors of land, with or on behalf of whom a settlement might be concluded, that the *jama* assessed upon their lands under the Regulations would be continued after the expiration of the ten years, and remain unalterable for ever, provided such continuance should meet with the approbation of the Honourable Court of Directors for the affairs of the East India Company, and not otherwise.

Power to declare *jama* assessed upon lands under those Regulations, fixed for ever.

**3. Article II.**—The Marquis Cornwallis, Knight of the Most Noble Order of the Garter, Governor General in Council, now notifies to all *zamindars*, independent *talukdars* and other actual proprietors of land paying revenue to Government, in the provinces of [Bengal,] Bihar and Orissa, that he has been empowered by the Honourable Court of Directors for the affairs of the East India Company to declare the *jama*, which has been or may be assessed upon their lands under the Regulation above-mentioned, fixed for ever.

*Jama* assessed upon lands of proprietors with whom settlement concluded, fixed for ever.

**4. Article III.**—The Governor General in Council accordingly declares to the *zamindars*, independent *talukdars* and other actual proprietors of land with or on behalf of whom a settlement has been concluded under the Regulations above-mentioned, that at the expiration of the term of the settlement no alteration will be made in the assessment which they have respectively engaged to pay, but that they and their heirs and lawful successors will be allowed to hold their estates at such assessment for ever.

*Jama* hereafter agreed to by proprietors whose lands are held *khas*, or let in farm, fixed for ever.

**5. Article IV.**—The lands of some *zamindars*, independent *talukdars* and other actual proprietors of land, having been held *khas*, or let in farm, in consequence of their refusing to pay the assessment required of them under the Regulations above-mentioned, the Governor General in Council now notifies to the *zamindars*, independent *talukdars* and other actual proprietors of land whose lands are held *khas* that they shall be restored to the management of their lands, upon their agreement to the payment of the assessment which has been or may be required of them, in conformity to the Regulations above-mentioned, and that no alteration shall afterwards be made in that assessment but that they, and their heirs and lawful successors, shall be permitted to hold their respective estates at such assessment for ever :

and he declares to the *zamindars*, independent *talukdars* and other actual proprietors of land, whose lands have been let in farm, that they shall not regain possession of their lands before the expiration of the period for which they have been farmed (unless the farmers shall voluntarily consent to make over to them the remaining term of their

(Secs. 6-7.)

lease, and the Governor General in Council shall approve of the transfer), but that at the expiration of that period, upon their agreeing to the payment of the assessment which may be required of them, they shall be reinstated, and that no alteration shall afterwards be made in that assessment, but that they, and their heirs and lawful successors, shall be allowed to hold their respective estates at such assessment for ever.

6. *Article V.*—In the event of the proprietary right in lands that are, or may become, the property of Government being transferred to individuals, such individuals, and their heirs and lawful successors, shall be permitted to hold the lands at the assessment at which they may be transferred for ever.

*Jama* of lands belonging to Government, but transferred to individuals, fixed for ever.

7. *Article VI.*—It is well known to the *zamindars*, independent *talukdars* and other actual proprietors of land, as well as to the inhabitants of [*Bengal*,] Bihar and Orissa, in general, that from the earliest times until the present period the public assessment upon the land has never been fixed, but that, according to established usage and custom, the rulers of these provinces have from time to time demanded an increase of assessment from the proprietors of land; and that, for the purpose of obtaining this increase, not only frequent investigations have been made to ascertain the actual produce of their estates, but that it has been the practice to deprive them of the management of their lands, and either to let them in farm, or to appoint officers on the part of Government to collect the assessment immediately from the *raiya*ts.

Assessment in former times liable to variation at discretion of Government.

The Honourable Court of Directors, considering these usages and measures to be detrimental to the prosperity of the country, have, with a view to promote the future ease and happiness of the people, authorized the foregoing declarations; and the *zamindars*, independent *talukdars* and other actual proprietors of land with or on behalf of whom a settlement has been or may be concluded, are to consider these orders fixing the amount of the assessment as irrevocable, and not liable to alteration by any persons whom the Court of Directors may hereafter appoint to the administration of their affairs in this country.

Motives of Court of Directors for abolishing usage and fixing assessment.

The Governor General in Council trusts that the proprietors of land, sensible of the benefits conferred upon them by the public assessment being fixed for ever, will exert themselves in the cultivation of their lands, under the certainty that they will enjoy exclusively the fruits of their own good management and industry, and that no demand will ever be made upon them, or their heirs or successors, by the present or any future Government, for an augmentation of the public assessment in consequence of the improvement of their respective estates.

Proprietors expected to improve estates.

## (Sec. 8.)

Conduct to  
be observed  
by pro-  
prietors  
towards  
dependent  
*talukdars*  
and *raiya*s.

To discharge the revenues at the stipulated periods without delay or evasion and to conduct themselves with good faith and moderation towards their dependent *talukdars* and *raiya*s, are duties at all time indispensably required from the proprietors of land, and a strict observance of those duties is now more than ever incumbent upon them, in return for the benefits which they will themselves derive from the order now issued.

The Governor General in Council therefore expects that the proprietors of land will not only act in this manner themselves towards their dependent *talukdars* and *raiya*s, but also enjoin the strictest adherence to the same principles in the persons whom they may appoint to collect the rents from them.

No claims  
for remis-  
sions or  
suspensions.

He further expects that, without deviating from this line of conduct, they will regularly discharge the revenue in all seasons; and he accordingly notifies to them, that, in future, no claims or application for suspensions or remissions, on account of drought, inundation or other calamity of seasons, will be attended to, but that in the event of any *zamindar*, independent *talukdar* or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, or his or her heirs or successors, failing in the punctual discharge of the public revenue which has been or may be assessed upon their lands under the above-mentioned Regulations, a sale of the whole of the lands of the defaulter, or such portion of them as may be sufficient to make good the arrear, will positively and invariably take place.

Sale of lands  
for arrears.

[1] 3. Article VII.—To prevent any misconstruction of the foregoing articles the Governor General in Council thinks it necessary to make the following declarations to the *zamindars*, independent *talukdars* and other actual proprietors of land :—

Regulations  
for protec-  
tion of  
*raiya*s,  
etc.

*First.*—It being the duty of the ruling power to protect all classes of people and more particularly those who from their situation are most helpless, the Governor General in Council will, whenever he may deem it proper, enact such Regulations as he may think necessary for the protection and welfare of the dependent *talukdars*, *raiya*s and other cultivators of the soil; and no *zamindar*, independent *talukdar* or other actual proprietor of land shall be entitled on this account to make any objection to the discharge of the fixed assessment which they have respectively agreed to pay.

Right of  
Government  
to all  
internal  
duties.

*Second.*—The Governor General in Council having, on the 28th July, 1790, directed the *sdir* collections to be abolished, a full compensation was granted to the proprietors of land for the loss of revenue sustained by them in consequence of this abolition; and he now declares that, if he

[1] For a restriction upon section 8, see the Bengal Revenue—free Lands (Non-Badshahi Grants) Regulation, 1793 (19 of 1793), s. 6, *post*, p. 50.

## (Sec. 8.)

should hereafter think it proper to re-establish the *sain* collections or any other internal duties, and to appoint officers on the part of Government to collect them, no proprietor of land will be admitted to any participation thereof, or be entitled to make any claims for remissions of assessment on that account.

*Third.*—The Governor General in Council will impose such assessment as he may deem equitable on all lands at present alienated and paying no public revenue which have been or may be proved to be held under illegal or invalid titles. and to jama on alienated lands.

The assessment so imposed will belong to Government and no proprietor of land will be entitled to any part of it.

*Fourth.*—The *jama* of those *zamindars*, independent *talukdars* and other actual proprietors of land, which is declared fixed in the foregoing articles, is to be considered entirely unconnected with, and exclusive of, any allowances which have been made to them in the adjustment of their *jama*, for keeping up *thanas* or police establishments, and also of the produce of any lands which they may have been permitted to appropriate for the same purpose, and the Governor General in Council reserves to himself the option of resuming the whole or part of such allowances, or produce of such lands, according as he may think proper in consequence of his having exonerated the proprietors of land from the charge of keeping the peace, and appointed officers on the part of Government to superintend the police of the country. Resumption of police allowances to proprietors.

The Governor General in Council, however, declares that the allowances or produce of lands which may be resumed will be appropriated to no other purpose but that of defraying the expense of the police; and that instructions will be sent to the Collectors not to add such allowances, or the produce of such lands, to the *jama* of the proprietors of land, but to collect the amount from them separately.

*Fifth.*—Nothing contained in this proclamation shall be construed to render the lands of the several descriptions of disqualified proprietors, specified in the first Article of the Regulations regarding disqualified landholders, passed on the 15th July, 1791, liable to sale for any arrears<sup>[1]</sup> which have accrued or may accrue on the fixed *jama* that has been or may be assessed upon their lands under the above-mentioned Regulations for the decennial settlement: provided that such arrears have accrued or may accrue during the time that they have been or may be dispossessed of the management of their lands under the said Regulations of the 15th July, 1791. Estates of disqualified proprietors not liable to sale for arrears.

[1] But see the Court of Wards Act, 1879 (Ben. Act 9 of 1879), s. 23A (in Vol. II of this Code), which authorizes the sale of estates, etc., for arrears of revenue which have accrued while the estates were under the charge of the Court of Wards.



(Secs. 9-10.)

It is to be understood, however, that whenever all or any of the descriptions of disqualified landholders, specified in the first Article of the last-mentioned Regulations, shall be permitted to resume or retain the management of their lands, in consequence of the ground of their disqualification no longer existing, or of the Governor General in Council dispensing with, altering or abolishing those Regulations, the lands of such proprietors will be held responsible for the payment of the fixed *jama* that has been or may be assessed thereon, from the time that the management may devolve upon them, in the same manner as the lands of all actual proprietors of land who are declared qualified for the management of their estates, and also of all actual proprietors who are unqualified for such management, by natural or other disabilities, but do not come within the descriptions of disqualified landholders specified in the first Article of the Regulations of the 15th July, 1791, are and will be held answerable, for any arrears that are or may become due from them, on the fixed *jama* which they, or any persons on their behalf, have engaged or may engage to pay, under the above mentioned Regulations, for the decennial settlement.

Proprietors  
may transfer  
lands  
without  
sanction  
of Govern-  
ment.

**9. Article VIII.**—That no doubt may be entertained whether proprietors of land are entitled, under the existing Regulations, to dispose of their estates without the previous sanction of Government, the Governor General in Council notifies to the *zamindars*, independent *talukdars* and other actual proprietors of land that they are privileged to transfer to whomsoever they may think proper, by sale, gift or otherwise, **their** proprietary rights in the whole or any portion of their respective estates, without applying to Government for its sanction to the transfer, and that all such transfers will be held valid :

Proviso.

Provided that they be conformable to the Muhammadan or the Hindu laws (according as the religious persuasions of the parties to each transaction may render the validity of it determinable by the former or the latter Code), and that they be not repugnant to any Regulations now in force, which have been passed by the British administrations, or to any Regulations that they may hereafter enact.

Rules for  
apportion-  
ing fixed  
*jama* on

[<sup>1</sup>]**10. Article IX.**—From the limitation of the public demand upon the lands, the net income, and consequently the value (independent of increase of rent obtainable by improvements), of any landed property,

[<sup>1</sup>] Section 10 is supplemented by the Bengal Land-revenue Assessment Regulation, 1801 (1 of 1801), s. 8, *post*, p. 82; and its application is extended by the Bengal Inheritance Regulation, 1793 (11 of 1793), s. 4, *post*, p. 41, and the Bengal Leases and Land-revenue Regulation, 1812 (18 of 1812), s. 5 (2), *post*, p. 122.

So much of s. 10 of the present Regulation as relates to the adjustment of the Government *jama* on lands exposed to public sale in satisfaction of decrees was repealed by Act 4 of 1846, s. 1.

## (Sec. 10.)

for the assessment on which a distinct engagement has been or may be entered into, between Government and the proprietor, or that may be separately assessed, although included in one engagement with other estates belonging to the same proprietor, and which may be offered for public or private sale entire, will always be ascertainable by a comparison of the amount of the fixed *jama* assessed upon it (which, agreeable to the foregoing declarations, is to remain unalterable for ever, to whomsoever the property may be transferred), with the whole of its produce, allowing for the charges of management.

portions of  
estates in  
event of sale  
or transfer  
and on  
shares of  
estates

But it is also essential that a notification should be made of the principles upon which the fixed assessment charged upon any such estate will be apportioned on the several divisions of it, in the event of the whole of it being transferred by public or private sale, or otherwise, in two or more lots, or of a portion of it being transferred in one, or in two or more lots, or of its being joint property, and a division of it being made amongst the proprietors; otherwise, from the want of a declared rule for estimating the proportion of the fixed *jama* with which the several shares would be chargeable in such cases, the real value of each share would be uncertain, and consequently the benefits expected to result from fixing the public assessment upon the lands would be but partially obtained.

The Governor General in Council has accordingly prescribed the following rules for apportioning the fixed assessments in the several cases above-mentioned; but as Government might sustain a considerable loss of revenue by disproportionate allotments of the assessment were the apportioning of it, in any of the cases above specified, to be left to the proprietors, he requires that all such transfers or divisions as may be made by the private act of the parties themselves be notified to the Collector<sup>[1]</sup> of the revenue of the *zila* in which the lands may be situated, or such other officer as Government may in future prescribe, in order that the fixed *jama*, assessed upon the whole estate, may be apportioned on the several shares in the manner hereafter directed, and that the names of the proprietors of each share and the *jama* charged thereon may be entered upon the public registers, and that separate engagements for the payment of the *jama* assessed upon each share may be executed by the proprietors, who will thenceforward be considered as actual proprietors of land.

And the Governor General in Council declares that, if the parties to such transfers or divisions shall omit to notify them to the Collector<sup>[1]</sup>

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[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

## (Sec. 10.)

of the revenue of the *zila* or such other officer as may be hereafter prescribed, for the purposes before-mentioned, the whole of such estate will be held responsible to Government for the discharge of the fixed *jama* assessed upon it, in the same manner as if no such transfer or division had ever taken place.

The Governor General in Council thinks it necessary further to notify, in elucidation of the declarations contained in this Article (which are conformable to the principles of the existing Regulations), that if any *zamindar*, independent *talukdar* or other actual proprietor of land shall dispose of a portion of his or her lands as a dependent *taluk*, the *jama* which may be stipulated to be paid by the dependent *talukdar* will not be entered upon the records of Government, nor will the transfer exempt such lands from being answerable, in common with the remainder of the estate, for the payment of the public revenue assessed upon the whole of it, in the event of the proprietor, or his or her heirs or successors, falling in arrear from any cause whatever, nor will it be allowed, in any case, to affect the rights or claims of Government, any more than if it had never taken place.

*First.*—In the event of the whole of the lands of a *zamindar*, independent *talukdar* or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded under the Regulations above-mentioned, being exposed to public sale by the order of the Governor General in Council, for the discharge of arrears of assessment, or in consequence of the decision of a Court of Justice, in two or more lots, the assessment upon each lot shall be fixed at an amount which shall bear the same proportion to its actual produce<sup>[1]</sup> as the fixed assessment upon the whole of the lands sold may bear to the whole of their actual produce.<sup>[1]</sup>

This produce shall be ascertained in the mode that is or may be prescribed by the existing Regulations, or such other Regulations as the Governor General in Council may hereafter adopt, and the purchaser or purchasers of such lands, and his or her or their heirs and lawful successors, shall hold them at the *jama* at which they may be so purchased, for ever.

*Second.*—When a portion of the lands of a *zamindar*, independent *talukdar* or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, under the Regulations before-mentioned, shall be exposed to public sale, by order of the Governor General in Council, for the liquidation of arrears of assessment,

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[1] As to the meaning of "actual produce" see the Bengal Land revenue Assessment Regulation, 1801 (1 of 1801), s. 8, *post*, p. 82

## (Sec. 10.)

or pursuant to the decision of a Court of Justice, the assessment upon such lands, if disposed of in one lot, shall be fixed at an amount which shall bear the same proportion to their actual produce<sup>[1]</sup> as the fixed assessment upon the whole of the lands of such proprietor, including those disposed of, may bear to the whole of their actual produce.<sup>[1]</sup>

If the lands sold shall be disposed of in two or more lots, the assessment upon each lot shall be fixed at an amount which shall bear the same proportion to its actual produce<sup>[1]</sup> as the fixed assessment upon the whole of the lands of such proprietor, including those sold, may bear to the whole of their actual produce.<sup>[1]</sup>

The actual produce<sup>[1]</sup> of the whole of the lands of such proprietor, whether the portion of them which may be sold be disposed of in one or in two or more lots, shall be ascertained in the mode that is or may be prescribed by the existing Regulations, or such other Regulations as the Governor General in Council may hereafter enact, and the purchaser or purchasers of such lands, and his or her or their heirs or successors, will be allowed to hold them at the *jama* at which they may be so purchased, for ever : and the remainder of the public *jama*, which will consequently be payable by the former proprietor of the whole estate, on account of the portion of it that may be left in his or her possession, will continue unalterable for ever.

*Third.*—When a zamindar, independent *talukdar* or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, shall transfer the whole of his or her estate, in two or more distinct portions, to two or more persons, or a portion thereof to one person, or to two or more persons in joint property, by private sale, gift or otherwise, the assessment upon each distinct portion of such estate so transferred shall be fixed at an amount which shall bear the same proportion to its actual produce<sup>[1]</sup> as the assessment upon the whole of the estate of the transferring proprietor, of which the whole or a portion may be so transferred, may bear to the whole of its actual produce.<sup>[1]</sup>

This produce shall be ascertained in the mode that is or may be prescribed in the existing Regulations, or such other Regulations as Government may hereafter adopt, and the person or persons to whom such lands may be transferred, and his or her or their heirs and lawful successors, shall hold them at the *jama* at which they may be so transferred, for ever : and where only a portion of such estate shall be transferred, the remainder of the public *jama* which will consequently

[1] As to the meaning of "actual produce," see the Bengal Land-revenue Assessment Regulation, 1801 (1 of 1801), s. 8, *post*, p. 82.

## (Sec 11)

be payable by the former proprietor of the whole estate [1] and the assessment of the lands that may remain in his or her possession shall be continuing and unalterable for ever.

*Fourth* — Whenever a division shall be made of land the settlement of which has been or may be concluded with or on behalf of the proprietor or proprietors, and that one or more may become the joint property of two or more persons, the assessment upon each part shall be fixed at an amount which shall bear the same proportion to its actual produce as the fixed *jama* assessed upon the whole of the estate divided may bear to the whole of its actual produce [2].

Thus produce shall be ascertained in the mode that is or may be prescribed by the existing Regulations or such other Regulation as the Governor General in Council may hereafter adopt, and the share and their heirs and lawful successors, shall hold their respective shares at the *jama* which may be so assessed upon them, for ever.

Adjusting  
*jama* of  
lands held  
*khass* or let  
in farm

[11. Article X — The following rules are prescribed respecting the adjustment of the assessment on the lands of *amildars* independent *talukdars* and other actual proprietors of land whose land are or may be held *khass* or let in farm in the event of their being disposed of by public sale, or transferred, by any private act of the proprietor, or of their being joint property, and a division of them taking place among the proprietors.

*First* — If the whole, or a portion of the land of a *amildar* independent *talukdar* or other actual proprietor of land who may not have agreed to the payment of the assessment proposed to him or her under the Regulations above-mentioned, and whose lands are or may be held *khass* or let in farm, shall be exposed to public sale in one or in two or more lots (pursuant to the decree of a Court of Justice) such land, if *khass*, shall be disposed of at whatever assessment the Governor General in Council may deem equitable, and the purchaser or purchasers of such lands, and his or her or their heirs and lawful successors shall hold the lands at the assessment at which they may be so purchased for ever.

If the lands, at the time of their being exposed to sale, shall be held in farm, and shall be put up in one or in two or more lots, they shall be disposed of under the following conditions —

The purchaser or purchasers shall receive, during the unexpired part of the term of the lease of the farmer, whatever such proprietor shall have

[1] See. in Clarke

[2] As to the meaning of 'actual produce', see the Bengal Land Revenue Amendment Regulation, 1801 (1 of 1801), s. post, p. 82

[3] The application of s. 11 is extended by the Bengal Inheritance Regulation 1793 (11 of 1793) s. 4, post, p. 41

So much of s. 11 as relates to the adjustment of the Government *jama* on lands exposed to public sale in satisfaction of decrees was repealed by Act 4 of 1846 — 1

## (Sec. 11.)

been entitled to receive, in virtue of his or her proprietary rights, on account of the land so purchased and such purchaser or purchasers shall engage to pay, at the expiration of the lease of the farmer, such assessment on account of the lands as Government may deem equitable.

The sum to be received by the purchaser or purchasers during the unexpired part of the term of the lease of the farmer, and the *jama* to be paid by such purchaser or purchasers after the expiration of the lease, shall be specified at the time of the sale, and such purchaser or purchasers, and his or her or their heirs and lawful successors, shall be allowed to hold the lands at the assessment at which they may be so purchased, for ever

*Second* ---If a *zamindar*, independent *talukdar* or other actual proprietor of land, whose lands are or may be held *khas* or let in farm, shall transfer by private sale, gift or otherwise, the whole or a portion of his or her lands in one or in two or more lots, the person or persons to whom the lands may be so transferred shall be entitled to receive from Government (if the lands are held *khas*), or from the farmer (if the lands are let in farm), the *malikana* to which the former proprietor was entitled on account of the land so transferred.

Persons to whom such lands may be so transferred will stand in the same predicament as the *zamindars*, independent *talukdars* or other actual proprietors of land mentioned in the fourth Article, whose lands are held *khas*, or have been let in farm, in consequence of their refusing to pay the assessment required of them under the before-mentioned Regulations for the decennial settlement; and the declarations contained in that Article are to be held applicable to them.

*Third*.—In the event of a division being made of lands that are or may become the joint property of two or more persons, and which are or may be held *khas* or let in farm, the proprietors of the several shares will stand in the same predicament, with regard to their respective shares, as the *zamindars*, independent *talukdars* and other actual proprietors of land specified in the fourth Article, whose lands have been let in farm or are held *khas* in consequence of their having refused to pay the assessment required of them under the before-mentioned Regulations for the decennial settlement; and the declarations contained in that Article are to be considered applicable to them.

## BENGAL REGULATION 2 OF 1793.

(THE BENGAL LAND-REVENUE REGULATION, 1793)

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## BENGAL REGULATION 2 OF 1793.

(THE BENGAL LAND-REVENUE REGULATION, 1793).<sup>[1]</sup>

(1st May, 1793.)

**A Regulation for abolishing the Courts of *Mal Adalat* or Revenue Courts, and transferring the trial of the suits which were cognizable in those Courts to the Courts of *Diwani Adalat* ; and prescribing Rules for the conduct of the Board of Revenue and the Collectors.**

**1.** In the British territories in Bengal the greater part of the Preamble. materials required for the numerous and valuable manufactures, and most of the other principal articles of export, are the produce of the lands : it follows that the commerce, and consequently the wealth of the country, must increase in proportion to the extension of its agriculture.

But it is not for commercial purposes alone that the encouragement of agriculture is essential to the welfare of these provinces.

The Hindus, who form the body of the people, are compelled, by the dictates of religion, to depend solely upon the produce of the lands for subsistence ; and the generality of such of the lower orders of the natives as are not of that persuasion are, from habit or necessity, in a similar predicament.

The extensive failure or destruction of the crops that occasionally arises from drought or inundation is in consequence invariably followed by famine, the ravages of which are felt chiefly by the cultivators of the

[1] **SHORT TITLE**—This short title was given by the Amending Act, 1897 (5 of 1897), Sch. III.—*see post*, p. 544.

**LOCAL EXTENT**—This Regulation was passed for the former Province of Bengal—*see* paragraph 1 of the Preamble

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed in General Acts, 1873-86, Ed 1928, p. 48), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 3, to be in force in the Districts of Hazaribagh, Ranchi, Palamau and Manbhum, and pargana Dhalbhum, in the District of Singhbhum, in the Chota Nagpur Division, *see* Vol. IV, Part III.

Sections 7 and 8 (10) are in force in the Angul District. *see* Vol IV, Part IV, but the rest of the Regulation is barred in that district, by the Angul Laws Regulation, 1913 (3 of 1913), section 3 (2), *post*, p. 768

The application of the Regulation is barred in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), section 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), section 3. *post*, p. 700.

**PARTIAL REPEAL**—So much of this Regulation as requires the appointment of *diwans* in the different districts, or defines the duties of the *diwans*, or relates in any other manner, directly or indirectly, to those offices, was repealed by Bengal Regulation 15 of 1813. Specific references in the Regulation to *diwans* were repealed by the Repealing Act, 1874 (16 of 1874), and have been omitted—*see* foot-notes, *post*.



## (Sec 1)

soil and the manufacturer from whose labours the country draw both its subsistence and wealth.

Experience having evinced that adequate supplies of grain are not obtainable from abroad in seasons of scarcity the country must necessarily continue subject to these calamities until the proprietors and cultivators of the lands shall have the means of increasing the number of the reservoirs, embankments and other artificial works by which to a great degree, the untimely cessation of the periodical rain may be provided against and the lands protected from inundation and as a necessary consequence the stock of grain in the country at large will always be sufficient to supply those occasional but less extensive deficiencies in the annual produce which may be expected to occur notwithstanding the adoption of the above precaution to obviate them.

To effect these improvements in agriculture which must necessarily be followed by the increase of every article of produce has accordingly been one of the primary objects to which the attention of the British Administration has been directed in its arrangements for the internal government of these provinces.

As being the two fundamental measures essential to the attainment of it the property in the soil has been declared to be vested in the landholders, and the revenue payable to Government from each estate has been fixed for ever.

These measures have at once rendered it the interest of the proprietors to improve their estates and given them the means of raising the funds necessary for that purpose.

The property in the soil was never before formally declared to be vested in the landholders, nor were they allowed to transfer such right as they did possess, or raise money upon the credit of their tenure without the previous sanction of Government.

With respect to the public demand upon each estate it was liable to annual or frequent variation at the discretion of Government.

The amount of it was fixed upon an estimate formed by the public officers of the aggregate of the rents payable by the *rayats* or tenants for each *bigha* of land in cultivation, of which, after deducting the expenses of collection, ten-elevenths were usually considered as the right of the public and the remainder the share of the landholder.

Refusal to pay the sum required of him was followed by his removal from the management of his lands and the public dues were either let in farm or collected by an officer of Government, and the above-mentioned share of the landholder, or such sum as special custom, or the

(Sec. 1.)

orders of Government, might have fixed, was paid to him by the farmer or from the public treasury.

When the extension of cultivation was productive only of a heavier assessment, and even the possession of the property was uncertain, the hereditary landholder had little inducement to improve his estate, and moneyed men had no encouragement to embark their capital in the purchase or improvement of land, whilst not only the profit, but the security for the capital itself, was so precarious.

The same causes, therefore, which prevented the improvement of land depreciated its value.

Further measures, however, are essential to the attainment of the important object above stated.

All questions between Government and the landholders respecting the assessment and collection of the public revenue, and disputed claims between the latter and their *rayats*, or other persons concerned in the collection of their rents, have hitherto been cognizable in the Courts of *Mut Adalat* or Revenue Courts.

The Collectors of the Revenue preside in these Courts as Judges, and an appeal lies from their decision to the Board of Revenue, and from the decrees of that Board to the Governor General in Council in the Department of Revenue.

The proprietors can never consider the privileges which have been conferred upon them as secure, whilst the Revenue-officers are vested with these judicial powers.

Exclusive of the objections arising to these Courts from their irregular, summary, and often *ex parte* proceedings, and from the Collectors being obliged to suspend the exercise of their judicial functions whenever they interfere with their financial duties, it is obvious that, if the Regulations for assessing and collecting the public revenue are infringed, the Revenue-officers themselves must be the aggressors, and that individuals who have been wronged by them in one capacity can never hope to obtain redress from them in another.

Their financial occupations equally disqualify them for administering the laws between the proprietors of land and their tenants.

Other security, therefore, must be given to landed property and to the rights attached to it before the desired improvements in agriculture can be expected to be effected.

Government must divest itself of the power of infringing, in its executive capacity, the rights and privileges which, as exercising the legislative authority, it has conferred on the landholders.

(Secs. 2-3.)

The Revenue-officers must be deprived of their judicial power. [1]

All financial claims of the public, when disputed under the Regulations, must be subjected to the cognizance of Courts of Judicature superintended by Judges who, from their official situations and the nature of their trusts, shall not only be wholly uninterested in the result of their decisions, but bound to decide impartially between the public and the proprietors of land, and also between the latter and their tenant.

The Collectors of the Revenue must not only be divested of the power of deciding upon their own acts, but rendered amenable for them to the Courts of Judicature and collect the public dues subject to a personal prosecution for every exaction exceeding the amount which they are authorized to demand on behalf of the public, and for every deviation from the Regulations prescribed for the collection of it.

No power will then exist in the country by which the rights vested in the landholders by the Regulations can be infringed or the value of landed property affected.

Land must, in consequence, become the most desirable of all property, and the industry of the people will be directed to those improvements in agriculture which are as essential to their own welfare as to the prosperity of the State.

The following rules, being the rules passed for the guidance of the Collectors and the Board of Revenue, on the 8th June, 1787, and the 25th April, 1788, with alterations adapted to the principles above stated, have been accordingly enacted.

**2. (Abolition of Courts of Mal Adalat.)** *Rep. by the Repealing Act, 1873 (12 of 1873).*

Collectors  
of revenue.

**3.** The collection of the revenue payable to Government from the estates in each *zila* is to be committed, as heretofore, to a civil-covenanted servant of the Company, who is to be styled Collector of the Revenue [ ] of the *zila* to which he may be appointed \* \* \* [2].

[1] This clause, and some of the preceding clauses of this preamble, are obsolete in consequence of the repeal of parts of this Regulation by later enactments which are noted *post*.

[2] As to the exercise of functions of Collectors by other officers, *see* the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236. As to the general powers of a Collector, *see* the Board's Miscellaneous Rules, 1928, p. 6; as to his general duties, *see* p. 12; as to his tours, *see* p. 14; and as to his inspection of officers *see* pp. 16, 17, 22 and 23.

[3] The second sentence of s. 3, as to oaths, which was repealed by the Repealing Act, 1873

(Secs. 4-8.)

4. The Collectors<sup>[1]</sup> are to correspond with the Board of Revenue,<sup>[2]</sup> and to conform to all instructions with which they have been furnished by that Board, and that are or may not be altered or revoked by this or any other Regulation \* \* \*<sup>[3]</sup> and also to all instructions which the Board of Revenue<sup>[4]</sup> may hereafter transmit to them. Collectors subject to Board of Revenue.

5. The Collectors<sup>[1]</sup> of the several *zilas* are to use a circular seal one inch and-a-half in diameter. Seals of Collectors.

The seals of the Collectors<sup>[1]</sup> in [*Bengal*] and Orissa are to bear an inscription to the following effect, in the Bengal and Persian characters and languages, and the seals of the Collectors in Bihar a similar inscription, in the Persian character and language, and the Hindustani language and Nagri character: "The seal of the Collector<sup>[1]</sup> of the *zila* of . . . ."

6. The Collectors<sup>[1]</sup> are to keep a regular diary of their official transactions, either in the English, Persian or Bengal language, recording and attesting them with their official signature at the time they may take place. Collectors to keep diary.

7. The duties prescribed in the following section are to be performed by the Collectors<sup>[1]</sup> under the superintendence of the Board of Revenue.<sup>[2]</sup> Duties of Collectors.

8. *First.*—To collect the amount of the fixed revenue assessed upon the land of the *zamindars*, independent *talukdars* or other actual proprietors of land with or on behalf of whom a settlement has been or may be concluded. Nature of duties.

*Second.*—To collect the stipulated annual revenue from the farmers of estates let in farm.

*Third.*—To levy the rents and revenue from estates held *khas*.

*Fourth.*—To make the future settlement of *khas* or farmed estates, agreeably to the regulations and instructions which they may receive for that purpose.

*Fifth.*—To prosecute for the recovery of the dues of Government from lands, of whatever description, held exempt from the payment of revenue under illegal or invalid tenures.

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post.* p. 236.

[2] As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 2 in Vol. III of this Code.

[3] The words and figures "published in the manner directed in Regulation 41, 1793," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

## (Sec. 9.)

*Sixth.*—To pay the pensions and allowances included in the public revenue and the pensions and compensations granted in consequence of the abolition of the *sair*.

*Seventh.*—To execute the instructions which may be issued to them by the Court of Wards regarding disqualified landholder and their estates.

*Eighth.*—To superintend the division of landed property payable revenue to Government which may be ordered to be divided into two or more distinct estates.

*Ninth.*—To apportion the public revenue on lands ordered to be disposed of at public sale for the discharge of arrears of revenue.

*Tenth.*—To collect the tax on spirituous liquors and intoxicating drugs or articles.[<sup>1</sup>]

*Eleventh and Twelfth.*—(To procure lands for native invalid soldiers, to collect the police tax.) Rep. by the Repealing Act, 1874 (16 of 1874).

*Thirteenth.*—To perform the above, and all other duties, according to the rules that have been or may be prescribed to them. [ ]

*Fourteenth.*—To transmit such annual, monthly or other account as they now furnish, or may be hereafter required to send by the Board of Revenue,[<sup>2</sup>] or any officer under that Board empowered to require such accounts.

*Fifteenth.*—To conform to all special orders that have been or may be issued to them by the Board of Revenue,[<sup>3</sup>] or by public officer, empowered to issue such orders.

Native  
officers to  
obey orders  
of Collector.

9. "[<sup>4</sup>] all Native officers under the Collector[<sup>5</sup>] are to act agreeably to his orders and such rules as he may prescribe.

They are not to perform any act of authority without his sanction or authority, under pain of being fined in a sum not exceeding six months'

[1] For the enactments relating to excise in force in Bihar and Orissa, see the Bihar and Orissa Excise Act, 1915 (B. & O. Act 2 of 1915) in Vol. III of this Code.

[2] The words and figures "by any Regulation published in the manner directed in Regulation 41, 1793," which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

[3] As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), in Vol. III of this Code.

[4] The words "The *duwan* and," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[5] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

(Secs. 10-13.)

salary, or of being dismissed from their offices by the Collector,[<sup>1</sup>] the Board of Revenue[<sup>2</sup>] or the Governor General in Council, and also of being sued in the Court of Judicature for damages by any person who may consider himself aggrieved by such unauthorized act.

10. The Collectors[<sup>1</sup>] are prohibited from employing, directly or indirectly, their private servants, whether *baniyas* or others, in the discharge of any part of their public duties, it being required that, in all matters relating to the trust committed to them, they act as the only empowered agents of Government.

Collectors not to employ private servants in public matters.

This prohibition, however, is not meant to restrict them from occasionally employing their assistants \* \* [<sup>3</sup>] or their inferior public servants in the cases and in the manner in which they are authorized to make use of their agency.

11. The *khazanchi* or Native cash-keeper in each *zila* is to be nominated by the Collector,[<sup>1</sup>] who is to take good and sufficient security from him for the faithful discharge of his trust, and for making good all deficiencies in the public money that may be committed to his charge.

Appointment and removal of Native cash-keepers.

The Collector[<sup>1</sup>] is to transmit the names of the person whom he may nominate to the office of *khazanchi*, and of his surety, with a copy of the engagement executed by the latter, to the Board of Revenue;[<sup>2</sup>] but the person so nominated shall not be considered as appointed until the Board of Revenue[<sup>2</sup>] shall have signified their approbation both of him and his surety.

The Native cash-keeper so appointed shall not be removed but for misconduct, or other sufficient cause, proved to the satisfaction of the Board of Revenue;[<sup>2</sup>] and he and the Collector[<sup>1</sup>] shall be held jointly and severally responsible to Government for the public money committed to their charge.

12. (*Form to be observed in issuing public money.*) Rep. by Act 25 of 1854.

13. [<sup>4</sup>] *The appointment and dismissal of all Native public servants on the establishments of the Collectorships (the keepers of the Native records and the khazanchi excepted) are vested in the Collectors.*

Appointment and removal of Native servants.

[<sup>1</sup>] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

[<sup>2</sup>] As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), in Vol. III of this Code.

[<sup>3</sup>] The words "or *diwans*," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[<sup>4</sup>] These words in italics were repealed by Ben. Reg. 5 of 1804, s. 5, but are printed here for convenience of reference.

## (Secs. 14-18.)

But they are to transmit to the Board of Revenue<sup>[1]</sup> regular notice of all appointments and removals, and are to employ none but such public and registered officers in matters in any respect relating to their official duty, and are not, under any plea or pretext, to confer on their public officers any private trust relating to their personal concerns.

In absence of Collector, senior Assistant to officiate.

**14.** In the event of the death or removal of a Collector<sup>[2]</sup> or of his absence from his station, the senior Assistant on the spot is to perform the duties of Collector \* \* <sup>[3]</sup>, and the public officers of the Collectorate are accordingly to obey his orders.

Collectors and their officers prohibited being concerned extra-officially in revenues.

**15.** No Collector,<sup>[2]</sup> Assistant \* \* <sup>[4]</sup> to a Collector, or any Native in the employ of a Collector or of an Assistant, shall hold, directly or indirectly, any farm, or be concerned on their private account in the collection or payment of the revenue of any lands in the *zila*, either as farmer, surety or otherwise; and Native officers and private servants and dependents of Collectors and Assistants are prohibited from purchasing, directly or indirectly, any land that the Collector<sup>[2]</sup> may dispose of at public sale, under the penalty of forfeiting the property to Government, upon proof being made, to the satisfaction of the Governor General in Council, of the property having been so purchased.

*Bond fide* purchases of land at private sale by Collector's officers, etc.

**16.** The rules in the preceding section, however, are not to be considered to prohibit a \* \* <sup>[5]</sup> Native officer of a Collector<sup>[2]</sup>, or any private servant of a Collector<sup>[2]</sup> or of an Assistant, from purchasing *bond fide* the proprietary right in lands situated in the *zila*, by private sale.

**17.** (*Prohibition against giving land to Europeans.*) *Rep. by the Repealing Act, 1868 (8 of 1868).*

Collectors and their Assistants prohibited from trading.

**18.** No Collector,<sup>[2]</sup> <sup>[6]</sup> [or] Assistant \* \* <sup>[4]</sup> shall, directly or indirectly, carry on any trade, or be concerned in any commercial transaction whatever.

This prohibition, with regard to Collectors and their Assistants, is declared to extend to the purchase, directly or indirectly, of any goods or

[1] As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), in Vol. III of this Code.

[2] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

[3] The words "and the *diwan*," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[4] The words "or *diwan*," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[5] The words "*diwan* or other," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[6] This word "or," in s. 18, was inserted by the Amending Act, 1903 (1 of 1903), Sch. II, see *post*, p. 629.

## (Secs. 19-26.)

commodities in the British dominions in Bengal, for the purpose of remitting money to Europe.

**19.** (*Deacons prohibited from lending money to proprietors of land.*) Rep. by the Repealing Act, 1873 (12 of 1873).

**20.** The Collectors<sup>[1]</sup> are to be careful that the accounts and records of their respective *zilas* are kept complete and duly preserved.

Collectors to keep records.

**21, 22.** (*Rules for rendering *zilas* compact, and prohibition against employing sepoys in collection of revenue.*) Rep. by the Repealing Act, 1871 (16 of 1874).

**23.** (*Restriction on advances of *takavi*.*) Rep. by the Land Improvement Act, 1871 (26 of 1871).

**24.** The Collectors<sup>[1]</sup> are prohibited deputing any person into the *zila* of any other Collector, or exercising any authority beyond the limits of their respective *zilas*, excepting in cases in which they may be authorized so to do \* \* \*<sup>[2]</sup> by special orders from a competent authority.

Collectors not to exercise authority beyond limits of their *zilas* without orders.

**25.** The Collectors<sup>[1]</sup> are to give monthly receipts for all payments of revenue into their treasuries, specifying the date or dates on which the money may be received \* \* \*<sup>[3]</sup>.

Rule with regard to receipts.

The keepers of the Native records are to keep a register of these receipts regularly numbered.

After having registered the receipts they are to attest on the face of them the date on which they may be registered.

A copy of this register is to be transmitted monthly to the Board of Revenue,<sup>[1]</sup> or as often as that Board may require.

A similar register of receipts is to be kept by all *tahsildars*, *sazawals*, or other Native officers entrusted with the immediate collection of the public revenue, and a copy of it is to be transmitted to the Collector<sup>[1]</sup> monthly or as often as he may require.

**26.** The monthly or other receipts, for salaries, pensions or allowances, of whatever kind, which may be paid by the Collectors<sup>[1]</sup> are to be deposited amongst the public records of their respective *zilas*, and a

Register of receipts for salaries, etc.

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

[2] The words and figures "by a Regulation published in the manner directed in Regulation 41, 1793, or," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[3] The words "and the species of rupee in which each payment may be made," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[4] As to the present constitution and powers of the Board of Revenue see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), in Vol. III of this Code.



## (Secs 27-33)

One of them is to be kept by the Collector at the office of the District Revenue Officer [1]

27. (Cellars resigning or removed from office) Rep by the Repealing Act 1874 (1 of 1874)

28-29. (Cellars to be subordinate to the District Revenue Officer) Rep by the Bengal Board of Revenue Regulation 1882 (7 of 1882)

30 to 32. (Power of Board over officers under the management of deputations) Rep by the Repealing Act 1874 (1 of 1874)

In what  
case the  
personal  
attendance  
of Native

[33]. The Board of Revenue [2] are empowered to require the personal attendance of any proprietor or farmer of land or any *talukdar* under farmer or *rangal* or any Native officer employed by a Collector [3] for the purpose of adjusting any claim made in any accounts or inquiring into any matter coming within cognizance provided the personal attendance of the party shall be found to them indispensably necessary.

In such cases the Board [2] are to direct the Collector [4] to issue a writ upon the person with a written notice under his official seal in the following form:—  
In the business on account of which his attendance is required, and requiring him to attend the Board by such period as shall be limited under pain of being subject to such daily fine until he attends or shows satisfactory cause for his non-attendance as the Board may think proper to impose.

The Board [2] are empowered to fine such person in default of appearance by the time required in such amount as may appear to them proper upon a consideration of the case and the situation and circumstances in life of the party and the amount of the fine shall be levied by the Collector [4] by the process prescribed for the recovery of revenue.

But the Board of Revenue [2] are prohibited requiring the personal attendance of any person in cases in which the business can be transacted by a *valid*.

[1] The word "A copy of the register is to be transmitted annually to the District Revenue Officer" which were repealed by the Repealing Act 1874 (1 of 1874) omitted.

[2] For power to require the attendance before Collector of proprietors, *talukdars*, and of landholders and native inhabitants generally see the Bengal Land Revenue Assessment Regulation 1801 (1 of 1801) s. 10 *post* p. 84.

[3] For power to fine proprietor and farmer of land for not attending before Collectors see the Bengal Landholders' Attendance Act 1842 (20 of 1842) s. 2 p. 709.

[4] As to the present constitution and powers of the Board of Revenue see the Bengal and Orissa Board of Revenue Act, 1917 (B. and O. Act 1 of 1917) s. 1 and 111 of the Code.

[5] As to the exercise of functions of Collectors by other officers see the Bengal Land Revenue Settlement Regulation 1822 (7 of 1822), s. 36 *post*, p. 236.

(Secs. 34-41.)

**34, 35.** (Concerning the Board's orders, and powers of Members.)  
*The Bengal Land and Revenue Regulation, 1822 (3 of 1822).*

**36.** The Board or the [unclear] are empowered to issue orders to their [unclear] [unclear] the settlement of lands that are or may be [unclear] in conformity to the Regulations and any special instructions which may be [unclear] to them by the [unclear] [Local Government].

Powers of Board as to settlement of lands held *khās*.

**37.** In all cases of a settlement being made with or on behalf of [unclear] independent *tahkildars* or other actual proprietors of land, their lands are to be [unclear] sufficient security for the payment of the [unclear]

Security for payment of revenue.

But where a land is let in farm, a *mālẓāmin*, or surety for the punctual discharge of the revenue is to be invariably required.

**38.** No remissions upon the settlement of a preceding year, nor any remissions whatsoever, are to be granted by the Board without the sanction of the [unclear] [Local Government]

Remissions.

**39.** It is to be observed as a general principle that the settlement of [unclear] and that one or may be *khās* is to be made by the Collectors<sup>[3]</sup> under the Regulations and the instructions of the Board of Revenue.<sup>[1]</sup>

Settlements to be made by Collectors.

But if the Board should deem a special deputation of one of their members or of any other person, necessary to form the settlement of any such lands, they are to propose the measures to the<sup>[2]</sup> [Local Government] with their reasons for recommending it.

**40.** Upon a settlement being concluded with any proprietor or farmer, conformably to the Regulations, the Board of Revenue<sup>[1]</sup> are to [unclear] the usual *bandobastī parwāna* to the proprietor or farmer, without applying to the [unclear] [Local Government] for [unclear]<sup>[4]</sup> [its] sanction for that purpose.

Procedure on settlement being concluded.

**41.** The collection of the revenue is committed to the Collectors<sup>[3]</sup>; but the Board of Revenue<sup>[1]</sup> are to see that the revenues are realized by the stipulated periods, or that solid and satisfactory reasons are assigned by the Collectors<sup>[3]</sup> for any delay or deficiency.

Collection of revenue.

[1] As to the present constitution and powers of the Board of Revenue see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), in Vol. III of this Code.

[2] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 630.

[3] As to the exercise of functions of Collectors by other officers, see the Bengal Land Revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

[4] The word "his", in the original text, is to be read as if the word "its" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 630.

(Sees 12-70)

The power of coercion over the proprietor and tenant of land is also vested in the Collectors<sup>[1]</sup> as prescribed in Regulation 14 of 1822.

Temporary  
suspensions

**42.** The Board<sup>[3]</sup> are authorized to grant temporary suspension of the demands of revenue whenever it may appear to them to be specially necessary, reporting the sum suspended without delay to the<sup>[4]</sup> [Local Government] with their reasons for the measure. But they are not to grant any suspensions beyond the current year.

Remissions  
of balances

**43.** No remissions of balances are to be granted without the special authority of the<sup>[4]</sup> [Local Government].

**44.** (*Accounts to be furnished to Governor General*) Rep. by the *Land Improvement Act, 1871* (26 of 1871).

Duty of  
Board to  
furnish ac-  
counts etc

**45.** The Board of Revenue<sup>[3]</sup> are to furnish the<sup>[4]</sup> [Local Government] with such annual, monthly or other accounts as they now are or may be required to submit to<sup>[5]</sup> [it].

They are likewise to observe all special orders which they have received or may receive from the<sup>[4]</sup> [Local Government].

**46, 47.** (*Prohibitions to be observed by Board and acknowledgment for places restored to foreign powers*) Rep. by the *Repealing Act, 1871* (16 of 1874).

**48.** (*Separate accounts of expenses for reducing rebellion, amandari and others*) Rep. by the *Repealing Act, 1873* (12 of 1873).

**49 to 70.** (*Rules for conducting the business of Board and powers of President*) Rep. by the *Bengal Board of Revenue Regulation, 1892* (3 of 1892).

[1] As to the exercise of functions of Collectors by their officers, see the *Bengal Land-revenue Settlement Regulation, 1822* (7 of 1822) s. 35 *post* p. 236.

[2] Ben. Reg. 14 of 1793 was repealed by the *Repealing Act, 1871* (16 of 1874) but this reference is saved by the proviso to that Act.

[3] As to the present constitution and powers of the Board of Revenue, see the *Bengal and Orissa Board of Revenue Act, 1913* (B. and O. Act 1 of 1913) in Vol. III of this Code.

[4] The words "Governor General in Council" in the original text are to be read as if the words "Local Government" were substituted therefor, see the *Amending Act, 1903* (1 of 1903) Sch. II *post* p. 630.

[5] The word "him", in the original text, is to be read as if the word "it" were substituted therefor—see *ibid*.

# BENGAL REGULATION 8 OF 1793.

(THE BENGAL DECENNIAL SETTLEMENT REGULATION, 1793.)

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## BENGAL REGULATION 8 OF 1793

THE BENGAL DECENNIAL SETTLEMENT REGULATION, 1793

(18 May 1794)

**A Regulation for re-enacting, with modifications and amendments, the rules for the Decennial Settlement of the public revenue payable from the lands of the zamindars independent talukdars and other actual proprietors of land, in [Bengal], Bihar and Orissa, passed for those Provinces, [respectively], on the 18th September, 1789; [the 25th November, 1789; and the 10th February, 1790], and subsequent dates.**

**1 to 3.** (*Re-enactment of code of rules passed on 23rd November 1791; term of settlement; to be perpetual with approbation of Court of Directors.*) Rep. by the Repealing Act, 1874 (16 of 1874)

Settlement  
with whom  
to be  
concluded

**4.** The settlement, under certain restrictions and exception hereafter specified, shall be concluded with the actual proprietors of the soil, of whatever denomination, whether zamindars, talukdars or chauthdars.

**5 to 12.** (*What talukdars to be actual proprietors; payment of rent through actual proprietors; what talukdars to be lease-holders; panchbari talukdars; proprietors of malqazari aima lands; rules for guidance of Collectors; right of dissatisfied parties to sue in Court of Diwani Idalat.*) Rep. by the Repealing Act, 1874 (16 of 1874).

Payment of  
revenue by  
talukdars  
ordered to be  
separated.

**13.** Talukdars ordered to be separated are not to be permitted to pay the revenue assessed upon their lands through the zamindars, or other actual proprietors of estates as heretofore.

[1] **SHORT TITLE.**—This short title was given by the Amending Act, 1897 (5 of 1897), Sec. III—see *post*, p. 544.

**LOCAL EXTENT.**—This Regulation was passed for the whole of the former Province of Bengal—see the title. It was declared, by the Laws Local Extent Act, 1874 (11 of 1874), section 6 (printed in General Acts, 1873-86, Ed. 1923, p. 48), to be in force throughout the former Province of Bengal, except as regards the Scheduled District.

The Regulation has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 3, to be in force in the Districts of Hazaribagh and Manbhum, and Pargana Dhalbhum in the district of Singhbhum, in the Chota Nagpur Division, see Vol. IV, Part III.

The Regulation is in force in the Sonthal Parganas, see Vol. IV, Part IV; but its application is barred in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 768.

**SEPARABLE Taluks.**—The rules regarding separable taluks, contained in Bengal Regulation 8 of 1793, are not applicable to any new taluk constituted since the period of the Decennial Settlement—see the Bengal Land-revenue Assessment Regulation, 1801 (1 of 1801), s. 14, *post*, p. 85.

(Secs. 11-19.)

**14.** *Talukdars* who, in consequence of the rules in sections 5 and 9<sup>[1]</sup> may be separated from the *zamindars* or other actual proprietors of estates, through whom they heretofore paid their revenues, are to pay their revenue in future immediately into the Collector's<sup>[2]</sup> treasury; except in districts where, from the number of *taluks*, or other cause, this mode would be attended with considerable inconvenience, in which case *tahsildars*, or Native Collectors, are to be appointed to receive the revenue of the *taluks* in such districts.

Separated *talukdars* where to pay revenue

**15.** *Zamindars* or other actual proprietors of land, from whose *zamindaris* or estates *taluks* may be separated, shall not be appointed *tahsildars* to receive the revenue of the *taluks* so separated, but the office of *tahsildar* shall, in every instance, be given to some other person of character and responsibility, and the whole expense of it is to be defrayed by Government.

*Tahsildars*

**16 to 18.** (*Rules respecting mukarrari leases and mukarraridars.*)  
*Rep. by the Repealing Act, 1876 (12 of 1876).*

**19.** *Istimrardars*, however, who have not got possession of their lands to the exclusion, or without the consent, of the actual proprietors,

*Istimrardars* to be considered as *patta talukdars*.

[1] Sections 5 and 9 were repealed by the Repealing Act, 1874 (16 of 1874), but this reference is saved by the proviso to that Act. The sections are as follow:—

"5. *First.*—The *talukdars* to be considered the actual proprietors of the lands composing their *taluks* are the following:

*Second.*—*Talukdars* who purchased their lands by private or at public sale, or obtained them by gift from the *zamindar* or other actual proprietor of land to whom they now pay the revenue assessed upon their *taluks*, or from his ancestors, subject to the payment of the established dues of Government, and who received deeds of sale, or gift of such land, from the *zamindar*, or *sanads* from the *khalsa*, making over to them his proprietary rights therein.

*Third.*—*Talukdars*, whose *taluks* were formed before the *zamindar* or other actual proprietor of land to whom they now pay their revenue, or his ancestors, succeeded to the *zamindari*.

*Fourth.*—*Talukdars*, the lands comprised in whose *taluks*, were never the property of the *zamindar* or other actual proprietor of the soil to whom they now pay their revenue, or his ancestors.

*Fifth.*—*Talukdars* who have succeeded to *taluks* of the nature of those described in the preceding clauses, by right of purchase, gift or inheritance, from the former proprietors of such *taluks*.

"9. The rules in section 5, respecting *taluks*, have also been extended to *aima* lands liable to the payment of a fixed quit revenue, denominated *mālguzāri aima*; and, agreeably to the distinctions laid down in that section, it has been ordered, that such *mālguzāri aima* tenures as are held under grants of the Muhammadan government previous to the Company's accession to the *Diwani*, or which have been since granted by proprietors of estates for a consideration received by them, are to be separated from the proprietors to whom their revenue is now paid, as coming within the spirit of the rules for the separation of *talukdars* who are proprietors of the lands composing their *taluks*. But *mālguzāri aima* tenures which may appear to have been *bonā fide* granted for the purpose of bringing waste-lands into cultivation shall continue included in the estates to which they are now annexed, as coming within the rules in section 8, respecting *jangalbari taluks*."

[2] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

## (Secs. 20-25.)

" \* \* \* [1] but hold them of the proprietors on *patta* or *tenure* as to be considered as a species of *patta talukdars*, and the settlement is to be made with them as hereafter specified.

Exceptions to general order for conclusion of decennial settlement with actual proprietors of soil.

**20.** The exceptions to the general order for the conclusion of the decennial settlement with the actual proprietors of the soil contained in section 4, include the following descriptions of persons (excepting those whom the [2] [Local Government] may judge competent to the management of their own estates), minors, idiots, lunatic or otherwise rendered incapable of managing their lands by natural defect or infirmities of whatever nature : [3] provided, however, with regard to the whole of these descriptions, that they are not partners in the *zamindaris*, independent *taluks* or other estates held by them, with others of a different description, in which case themselves or guardian are allowed, with their partners, to engage for the settlement of their lands, and elect a joint manager, under the restrictions hereafter mentioned.

Management of lands of disqualified proprietors.

**21.** The lands of disqualified proprietors, coming within the above descriptions, are to be managed for the benefit of the proprietors by persons appointed to the trust by [4] [the Local Government] [5].

Exception as to proprietors of land in balance to Government and unable to pay arrears.

**22.** A further exception has been made to proprietors in balance to Government, and unable to pay the arrears due from them; in which instances no settlement is to be concluded with the defaulting proprietors, but their lands are to be let in farm, or held *khas*, for a period of three years, at the discretion of the Collector.[6]

**23 to 25.** (*Settlement of undivided estates possessed by several proprietors; appointment of manager; when guardians of proprietors may vote in choice of manager; nomination of manager by Collector.*) Rep. by Ben. Reg. 17 of 1805.

[1] The words and figures "as the *mulawandari* mentioned in section 13 are supposed to have done," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[2] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 630.

[3] The words "and persons whom the Governor General in Council may deem disqualified on account of their contumacy or notorious profligacy of character," which were repealed by Ben. Reg. 7 of 1796, s. 2, are omitted.

[4] The word "Government," in the original text, is to be read as if the words "the Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 630.

[5] The words "in the mode prescribed in Regulation 10, 1793, which also contains rules for the selection and conduct of such managers, as well as regarding the provision to be made for the support of the proprietors," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[6] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

(Secs. 26-33.)

**26.** The determination of the majority of the proprietors present, under the restrictions specified in section 23<sup>[1]</sup>, is also to be binding on the remainder, in agreeing or disagreeing to the *jama* proposed for undivided estates. The sharers, however, if dissatisfied, may obtain a division of their lands and a proportionate allotment of the revenue assessed thereon, but at their own expense.

Determina-  
tion of  
agreement  
to *jama* of  
undivided  
estates

**27.** When a portion of land stands in the joint names of several proprietors, or of one for many, but each proprietor has his separate share in his own possession and management, or in that of an agent for him, the settlement is to be made for each share with the person in possession, and his land is to be held exclusively responsible for the revenue assessed upon it.

Settlement  
of land  
standing in  
joint names  
of several  
proprietors  
or of one  
for many.

**28, 29.** (*Settlement of mortgaged lands ; settlement when proprietors are not forthcoming.*) Rep. by the Repealing Act, 1876 (12 of 1876).

**30.** Where the property in lands is disputed, the settlement is to be made with the proprietor in possession, under an express declaration that he is nevertheless liable to the claims upon the estate, which is to be transferable to any other person to whom the property may be subsequently adjudged.

Settlement  
of disputed  
estates.

**31.** If a case should occur in which none of the claimants shall have been previously in possession, they are to be allowed to appoint a manager until their claims shall have been determined in the *Diwani Adalat* of the *zila*: but, if they should not agree to a manager, the lands are to be held *khass*, and the surplus produce, after discharging the revenue, is to be kept in deposit, until the right of property shall be adjudged.

If no claim-  
ant has been  
previously  
in posses-  
sion.

**32.** Where disputes exist concerning the boundaries of land, they are to be left to be adjusted in the *Diwani Adalat*, and the settlement is to be made in the meantime for the lands in possession of the disputing parties respectively.

Settlement in  
cases of dis-  
putes as to  
boundaries.

**33.** (*Rules for fixing assessment.*) Rep. by the Amending Act, 1903 (1 of 1903).

[1] Section 23 was repealed by Ben. Reg. 17 of 1805. It ran as follows :—

"23. Where more proprietors than one possess an undivided estate, and the whole of them be not within the description of disqualified landholders specified in section 20, the settlement is to be made with them jointly, and they are to be required to elect a *sarbarahkar* or manager, who shall have the exclusive management of their lands during the continuance of his appointment. The determination of the majority of the proprietors, or of the majority of those present in the event of the absence of any, is to be binding on the remainder in the choice of a manager; and, when the votes of the proprietors are equal, the election of the manager is to be determined by the greater interest of the proprietors in the property. If in any case the interest also be equal, the manager is to be appointed by the Board of Revenue."



(S. ss. 14-28.)

Allowances  
of *kazis* and  
*Kanungos*,  
and public  
pensions, to  
be added  
to the *jama*.

**34.** The allowances of the *kazis* and *Kanungos* (collectors) paid by the landholders, as well as any public pensions paid to public officers by the landholders, are to be added to the amount of revenue paid by the landholders, or to be added to the amount of revenue paid by the landholders in the future paid by the Collectors<sup>[1]</sup> or the revenue of the landholders on the part of Government, under the rules and instructions laid down in their guidance, with regard to such payments, in the Regulation passed by the Governor General in Council on the 10th June, 1791, and as enacted with modifications, by Regulation 24, 1793<sup>[2]</sup>.

Assessment  
to be fixed  
exclusive of  
*sair*, with  
exceptions.

**35.** The assessment is to be fixed exclusive and independent of all duties, taxes and other collections known under the general denomination of *sair*; the collections made in the *ganjes*, *hâts* and *barans* situated within the limits of the town of Calcutta excepted, and excepting also the collections confirmed to the proprietors and holders of *ganjes*, *barans* and *hâts* by the Resolutions passed by the Governor General in Council on the 11th of June, 1790.

\* \* \* \* \*

Also exclu-  
sive of  
*lakhiraj*  
lands.

**36.** The assessment is also to be fixed exclusive and independent of all existing *lakhiraj* lands, whether exempted from the *khiraj* (or public revenue) with or without due authority.

But not of  
*malikana*  
lands in  
Bihar, or  
other lands  
in Bengal  
and Midna-  
pore.

**37.** The above exemption, however, is not meant to include the *malikana* lands in Bihar, [for the *nankar*, *khamar*, *ryjot* and other private lands of the *zamindars* and independent *talukdars* or other actual proprietors of land in Bengal and Midnapore,] regarding which the following rules have been prescribed.

*Malikana*  
lands in  
Bihar to be  
re-annexed.

**38.** Where the *zamindars* or other actual proprietors of land, in Bihar, have resigned, or have been deprived of the management of their lands, retaining possession of a title as *Malikana*, the latter is to be re-annexed, and the *zamindar*, or other actual proprietors, are to be required to engage for the whole of their estates including the *Malikana* lands; unless such lands be held as *Malikana* under grants made, or confirmed by the Governor General in Council, or the supreme authority of the country for the time being, and have been sold, or mortgaged, and given in possession to the mortgagee, in which case they are to be exempted from this rule.

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

[2] Ben. Reg. 24 of 1793 was repealed by the Pensions Act, 1871 (25 of 1871) in General Acts, 1834-72, Ed. 1928, p. 347. So much of section 34 as relates to *Kanungos* has been repealed for the Orissa Division by the Orissa Tenancy Act, 1913 (B. and O. Act 2 of 1913), s. 2, Sch. I, Part I, in Vol. III of this Code.

[3] The second sentence of s. 35, which was repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

## (Secs. 39-41.)

Grants for *malikana* lands not made or confirmed by the supreme authority of the country, are declared invalid by the Regulation passed on the 8th August, 1788.

If the Collectors, however, should be of opinion that any material injury will be done to any individual by the execution of these orders, they are to report the circumstances to the Board of Revenue.

**39.** The *nankar*, *khamar*, *nij-jot* and other private lands appropriated by the *zamindars*, independent *talukdars* and other actual proprietors of land in Bengal<sup>[1]</sup> and Orissa to the subsistence of themselves and families shall be also annexed to the *malguzdri* lands, and the ten years' *jama* fixed upon the whole under the following modification; that such proprietors as may decline to engage for their lands be allowed the option of retaining possession of their private lands above specified, upon the terms on which they have hitherto possessed them, provided they shall prove, to the satisfaction of the Board of Revenue,<sup>[2]</sup> that they held them under a similar tenure previous to the 12th August, 1765, the date of the grant of the *Diwani* to the Company, and have hitherto been permitted to keep possession of them, whenever their *zamindaris* or estates have been held *khas* or let in farm, but not otherwise.

*Nankar, khamar, nij-jot and other private lands of proprietors in Bengal and Orissa to be annexed to the malguzari lands.*

In the event of such proof, and of their availing themselves of the option above given to retain possession of their private lands, a deduction, adequate to the neat produce of such lands, is to be made from the amount of the allowance fixed for excluded proprietors by section 44.<sup>[3]</sup>

**40.** The above consolidation of the *malguzdri* and private lands is also to be made in the *taluks* continued under the proprietors on whom they have hitherto been dependent; not, however, with a view of increasing the rents of the *talukdars*, but in order to make the whole of the lands composing their *taluks* answerable for their proportion of the public assessment allotted thereon.

*Consolidation of malguzari and private lands also in certain taluks.*

**41.** The *chakaran* lands, or lands held by public officers and private servants in lieu of wages, are also not meant to be included in the

*Chakaran annexed to malguzari lands.*

[1] This related to the former Province of Bengal.

[2] As to the present constitution and powers of the Board of Revenue see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[3] Section 44 was repealed by the Repealing Act, 1874 (16 of 1874), but 'his reference is saved by the proviso to that Act. The section ran as follows:—

"44. Proprietors who may finally decline engaging for the *jama* proposed to them, and whose lands may consequently be let in farm or held *khas* are to receive *malikana* (an allowance in consideration of their proprietary rights) at the rate of 10 per cent. on the *sadr jama* of their lands, if let in farm, or at the same rate on the neat collections from their lands, if held *khas*, viz., on the neat amount realized by Government, after defraying the *malikana* as well as all other charges. Out of this allowance, however, a provision is to be made for such persons belonging to the families of the proprietors as may be entitled thereto."

## (Secs. 42-49.)

exception contained in section 36. The whole of these lands in each Province are to be annexed to the *malguzari* lands and declared to be possible for the public revenue assessed on the *amindars*, independent *taluks* or other estates in which they are included, in common with all other *malguzari* lands therein.

**42.** (*Engagements for the jama to be for siccra supees*.) Rep. Repealing Act, 1874 (16 of 1874).

Procedure in case of land-holders declining to engage for *jama* proposed to them.

**43.** In the event of any proprietor declining to engage for ment of his lands at the *jama* proposed to him, the Collector communicate the objections offered, with his opinion respecting to the Board of Revenue.<sup>[2]</sup>

That Board<sup>[2]</sup> is to determine the proper assessment after making such further inquiries as they may think necessary, and the objection proprietor is to be required to engage for such assessment without further delay; and in the event of his refusal, which is to be given in writing, his lands are to be let in farm or held *khas*, as the Board of Revenue<sup>[2]</sup> may in each instance think most expedient.

**44 to 47.** (*Proprietors refusing to engage for the jama to receive malikana; rules respecting payment of malikana and enforcement of payment from farmers.*) Rep. by the Repealing Act, 1874 (16 of 1874).

**48.** (*Settlement by proprietors with talukdars under them.*) Rep. by the Repealing Act, 1876 (12 of 1876).

Certain *istimrardars* not liable to increase of rent.

**49.** It is to be understood, however, that *istimrardars* (*mukarraridars*) of the nature of those described in section 18<sup>[1]</sup> who have held their land at a fixed rent for more than twelve years, are not liable to be assessed with any increase, either by the officers of Government or by the *zamindar* or other actual proprietor of land, should he engage for his own lands.

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

[2] As to the present constitution and powers of the Board of Revenue see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act I of 1913), printed in Vol. III of this Code.

[3] Section 18 was repealed by the Repealing Act, 1876 (12 of 1876), but this reference is saved by the proviso to that Act. The section ran as follows:

"18. *Mukarraridars* holding lands of which they are not the actual proprietors and whose *mukarrari* grants have been obtained since the Company's accession to the *Diwani*, and never received the sanction of the Supreme Government, are to be dispossessed, and the settlement is to be made with the actual proprietors of the soil under this Regulation.

In cases, however, where such *mukarraridars* have been in possession of their *mukarraris* for a term exceeding twelve years, they are to receive during their lives (subject to the pleasure of the Honourable Court of Directors) the difference between the *jama* at which they held the lands and that which may be now agreed to by the actual proprietors, added to the neat produce of the authorised *sair*, resumed or abolished."

(Secs. 50-52.)

With regard to such *istimrardars* also as have not held their lands at a fixed rent for so long a period, if the *zamindar* or other actual proprietor of land has bound himself by the deed which he may have executed not to lay any increase upon them, he shall not be allowed to infringe the conditions of the deed for his own benefit, but must confine his demands to the rent he may have voluntarily agreed to receive.

**50.** This last restriction imposed on the *zamindar* or other actual proprietor of land, in section 49, is not to be considered to preclude the officer of Government or farmer, in the event of the *zamindari* being held *khass* or let in farm, from assessing such *istimrardars* according to the general rate of the district.

Exception to above.

[<sup>1</sup>]**51.** The following rules are prescribed to prevent undue exaction from the dependent *talukdars* :—

Rules to prevent undue exactions from *talukdars*.

*First.*—No *zamindar* or other actual proprietor of land shall demand an increase from the *talukdars* dependent on him, although he should himself be subject to the payment of an increase of *jama* to Government: except upon proof that he is entitled so to do, either by the special custom of the district, or by the conditions under which the *talukdar* holds his tenure; or that the *talukdar*, by receiving abatements from his *jama*, has subjected himself to the payment of the increase demanded, and that the lands are capable of affording it.

*Second.*—If, in any instance, it be proved that a *zamindar* or other actual proprietor of land exacts more from a *talukdar* than he has a right to, the Court shall adjudge him to pay a penalty of double the amount of such exaction, with all costs of suit, to the party injured.

[<sup>2</sup>]**52.** The *zamindar* or other actual proprietor of land is to let the remaining lands of his *zamindari* or estate, under the prescribed restrictions, in whatever manner he may think proper; but every engagement contracted with under-farmers shall be specific as to the amount and conditions of it; and all sums received by any actual proprietor of land

Power of actual proprietors to let remaining lands as they think proper.

[<sup>1</sup>] Notwithstanding anything contained in s. 51 of this Regulation, certain dependant *talukdars* and other persons are not to be liable to enhancement of rent—see the Chota Nagpur Tenancy Act, 1908 (Ben. Act 6 of 1908), in Vol. II of this Code.

Ss. 51 to 55, 64 and 65 are repealed by the Bengal Tenancy Act, 1885 (8 of 1885), s. 2 (1) (printed *post*, p. 403), in the whole of the former Province of Bengal “except the town of Calcutta, the Division of Orissa and the Scheduled Districts.” They have also been repealed for the Orissa Division by the Orissa Tenancy Act, 1913 (B. and O. Act 2 of 1913), s. 2, Sch. I, Part 1, in Vol. III of this Code.

Sections 51 to 55, 64 and 65 appear to be in force only in the Chota Nagpur Division.

[<sup>2</sup>] As to the local repeal of s. 52, see the foot-note to s. 51, immediately above.

## (Secs. 53-58.)

or any farmer of land, of whatever description, over and above what is specified in the engagements of the persons paying the same, shall be considered as extorted, and be repaid with a penalty of double the amount. The restrictions prescribed and referred to in this section are the following :

Lands so let  
not to be  
taken  
charge of  
without  
*amilnama*

[<sup>1</sup>]53. No person contracting with a *zamindar*, independent *talukdar* or other actual proprietor or employed by him in the management of the collections shall be authorized to take charge of the lands or collections without an *amilnama*, or written commission, signed by such *zamindar*, independent *talukdar* or other actual proprietor.

Process to  
prevent  
imposition  
on *raiya*s  
under  
denom-  
ination of  
*abwab*,  
*mathat*, etc

[<sup>1</sup>]54. The impositions upon the *raiya*s, under the denomination of *abwab*, *mathat* and other appellations, from their number and uncertainty having become intricate to adjust, and a source of oppression to the *raiya*s, all proprietors of land and dependent *talukdars* shall revise the same, in concert with the *raiya*s, and consolidate the whole with the *assal* into one specific sum.

In large *zamindaris* or estates the proprietors are to commence this simplification of the rents of their *raiya*s in the *parganas* where the impositions are most numerous, and to proceed in it gradually till completed; but so that it be effected for the whole of their lands by the end [<sup>2</sup>] [*of the Bengal year 1198 in the Bengal districts, and*] of the *Fasli* [<sup>2</sup>] and *Wilyati* [<sup>3</sup>] year 1198 in the Bihar and Orissa districts, these being the periods fixed for the delivery of *pattas*, as hereafter specified.

Proprietors  
and farmers  
of land  
prohibited  
imposing  
new *abwab*  
or *mathat*  
on *raiya*s

[<sup>1</sup>]55. No actual proprietor of land and dependent *talukdar* or farmer of land, of whatever description, shall impose any new *abwab* or *mathat* upon the *raiya*s under any pretence whatever.

Every exaction of this nature shall be punished by a penalty equal to three times the amount imposed; and if, at any future period, it be discovered that any new *abwab* or *mathat* have been imposed, the person imposing the same shall be liable to this penalty for the entire period of such impositions.

56, 57. (*Variations of pattas according to articles of produce; what pattas delivered to raiya*s shall contain) *Rep. by the Repealing Act, 1876* (12 of 1876).

58. (*Forms of pattas.*) *Rep. by the Bengal Land-revenue Sales Regulation, 1812* (5 of 1812), s. 3.

[<sup>1</sup>] As to the local repeal of ss 53 to 55, see the foot-note to s 51, on p 35, ante

[<sup>2</sup>] i.e., the 12th September, 1791.

[<sup>3</sup>] i.e., the 1st September, 1791.

(Secs. 59-67.)

**59, 60.** (*Right of raiyats to demand pattas; existing leases to remain in force until period of expiration; restriction on cancelling pattas of khudkast raiyats.*) Rep. by the Repealing Act, 1876 (12 of 1876).

**61.** (*Time allowed for delivery of pattas to raiyats.*) Rep. by the Repealing Act, 1874 (16 of 1874).

**62.** (*Rules regarding patwaris.*) Rep. by the Bengal Patwaris Regulation, 1817 (12 of 1817), as extended by the Bengal Kanungos and Patwaris Regulation, 1819 (1 of 1819), s. 4(2).

**63.** (*Proprietors to give receipt for rent or revenue received, and not to demand rent of absconded raiyats from those who remain.*) Rep. by the Repealing Act, 1874 (16 of 1874).

[<sup>1</sup>]**64.** The proprietors of land, dependent *talukdars* and farmers of land, of every description, are to adjust the instalments of the rents receivable by them from their underrenters and *raiya*t*s*, according to the time of reaping and selling the produce, and they shall be liable to be sued for damages for not conforming to this rule. Adjustment of *mufassal kistbandis*.

[<sup>2</sup>]**65.** No proprietor of land or dependent *talukdar* shall contract any engagement with any under-farmer, or authorize any act, contrary to the letter and meaning of this Regulation. Bar to engagements contrary to Regulation.

**66.** *Zamindars*, independent *talukdars* and other actual proprietors of land, dependent *talukdars*, farmers of land holding farms immediately of Government, and all persons farming lands of the above-mentioned descriptions of landholders and farmers of lands, and their respective officers, agents, servants, dependents and *raiya*t*s*, are prohibited from taking cognizance of, or interfering in, matters, or causes coming within the jurisdiction of the Courts of Civil Judicature, \* \* \* [<sup>3</sup>] or the Magistrates, under pain of being liable to the payment of such fine to Government, and damages to the party injured, as the Court of Judicature in which they may be prosecuted for the act may deem it proper to impose and award. Landholders, etc., not to interfere in matters coming within cognizance of Courts or Magistrates

**67. First to Fourth.** (*Restrictions in the kabuliyats to be in force; proprietors entitled to sell or mortgage their estates from date of settlement; rules regarding recovery of arrears from raiyats; withdrawal of*

[<sup>1</sup>] As to the local repeal of s. 64, see foot-note [1] on p. 35, *ante*.

[<sup>2</sup>] As regards s. 65, it should be noted that the portion of the Bengal Land-revenue Sales Regulation, 1812 (5 of 1812), s. 3, which was repealed by the Repealing Act, 1874 (16 of 1874), rescinded "such parts of Reg. 8 of 1793 . . . as declare that engagements for rent contracted in any other mode than that prescribed by the Regulation . . . shall be deemed to be invalid."

As to the local repeal of s. 65, see foot-note [1] on p. 35, *ante*.

[<sup>3</sup>] The words "or the Courts of Circuit," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

## (Secs. 2-3.)

For the above reasons, and as the limitation of the public demand upon the estates of individuals as they now exist, and the rules prescribed for apportioning the amount of it on the several shares of any estates which may be divided, obviate the objections and inconveniences that might have arisen from such divisions when the public demand was liable to annual or frequent variation, the Governor General in Council has enacted the following rules :

Descent of  
landed pro-  
perty after  
1st July,  
1794.

2. \* \* \* [1] if any *zamindar*, independent *talukdar* or other actual proprietor of land, shall die without a will, or without having declared by a writing, or verbally, to whom and in what manner his or her landed property is to devolve after his or her demise, and shall leave two or more heirs, who by the Muhammadan or Hindu law (according as the parties may be of the former or latter persuasion) may be respectively entitled to succeed to a portion of the landed property of the deceased, such persons shall succeed to the shares to which they may be so entitled.

Estate how  
held on  
death of  
actual  
proprietor.

3. If any *zamindar*, independent *talukdar* or other actual proprietor of land, shall die \* \* \* [2] without a will, or without having declared by a writing, or verbally, to whom and in what manner his or her landed property is to devolve after his or her demise, and shall leave two or more heirs, who by the Muhammadan or Hindu law (according as the parties may be of the former or latter persuasion) shall be respectively entitled to succeed to a portion of the landed property of the deceased, under the rule contained in [3] [section 2] such persons shall be at liberty, if they shall prefer so doing, to hold the property as a joint undivided estate.

If one or more, or all of the sharers shall be desirous of having separate possession of their respective shares, a division of the estate shall be made in the manner directed in [4] [the Estates Partition Act, 1876], and such sharer or sharers shall have the separate possession of such share or shares accordingly.

If there shall be three or more sharers, and any two or more of them shall be desirous of holding their shares as a joint undivided estate, they shall be permitted to keep their shares united accordingly.

[1] Words and figures as to dates, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[2] The words and figures "subsequent to the period specified in section 2," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[3] The word and figure "section 2" in s. 3 were substituted for the words "that section" by the Amending Act, 1891 (12 of 1891), Sch. II—see the General Acts, 1887-97, Ed. 1928, p. 188.

[4] These words and figures in square brackets in s. 3 were substituted for the word and figures "Regulation 25, 1793," by the Amending Act, 1891 (12 of 1891), Sch. II—see the General Acts, 1887-97, Ed. 1928, p. 188. Ben. Act 8 of 1876 has been repealed and re-enacted by the Estates Partition Act, 1897 (Ben. Act 5 of 1897), and this reference should now be construed as a reference to the latter Act—see s. 2 (2) thereof, in Vol. II of this Code.

(Secs. 4-5.)

4. \* \* \* [1] if any one or more of such sharers shall apply to have the separate possession of his or their share or shares, the proportion of the public *jama* charged upon the whole estate which is to be assessed upon such share or shares is to be adjusted according to the rules prescribed in section 10, Regulation 1, 1793.[2]

Shares held  
separate how  
assessed.

If the estate is held *khas* or let in farm, the provisions contained in section 11, Regulation 1, 1793,[2] regarding estates so circumstanced which may be divided, will be applicable to it.

5. Nothing contained in this Regulation is to be construed to \* \* \* [3] prohibit any actual proprietor of land bequeathing or transferring by will, or by a declaration in writing, or verbally, either prior or subsequent to the 1st July, 1794, his or her landed estate entire to his or her eldest son or next heir, or other son or heir, in exclusion of all other sons or heirs, or to any person or persons, or to two or more of his or her heirs, in exclusion of all other persons or heirs, in the proportions, and to be held in the manner, which such proprietor may think proper :

Saving of  
bequests  
and  
transfers.

Provided that the bequest or transfer be not repugnant to any Regulations that have been or may be passed by the Governor General in Council, nor contrary to the Hindu or Muhammadan law; and that the bequest or transfer, whether made by a will or other writing, or verbally, be authenticated by, or made before, such witnesses, and in such manner, as those laws and Regulations respectively do or may require.

[1] The reference to Reg. 8 of 1793, in s. 4, which was repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

[2] The Bengal Permanent Settlement Regulation, 1793. It is printed, *ante*, p. 3.

[3] Portions of ss. 5 and 6 which were repealed by the Repealing Act, 1874 (16 of 1874), with the effect of running the two sections into one, have been omitted.



## BENGAL REGULATION 19 OF 1793.

[THE BENGAL REVENUE-FREE LANDS (NON-BADSHAHI GRANTS) REGULATION, 1793.]

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## BENGAL REGULATION 19 OF 1793.

[THE BENGAL REVENUE-FREE LANDS (NON-BADSHAHI GRANTS)  
REGULATION, 1793.][<sup>1</sup>]

(1st May, 1793.)

A Regulation for re-enacting, with modifications, the rules passed by the Governor General in Council on the 1st December, 1790, for trying the validity of the titles of persons holding, or claiming a right to hold, lands exempted from the payment of revenue to Government, under grants not being of the description of those termed *badshahi* or royal; and for determining the amount of the annual assessment to be imposed on lands so held, which may be adjudged or become liable to the payment of public revenue.

1. By the ancient law of the country the ruling power is entitled to a certain proportion of the produce of every *biga* of land (demandable in money or kind, according to local custom), unless it transfers its right thereto for a term or in perpetuity, or limits the public demand upon the whole of the lands belonging to an individual, leaving him to

Preamble.

[<sup>1</sup>] **SHORT TITLE.**—This short title was given by the Amending Act, 1903 (1 of 1903), Sch. I. *see post*, p. 617.

**LOCAL EXTENT.**—This Regulation was declared by the Cuttack Land-revenue Regulation, 1805 (12 of 1805), ss. 17 and 24 (printed *post*, pp. 89, 93), to be in force, with modifications, in the District of Cuttack.

It was afterwards declared by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed in General Acts, 1873-86, Ed. 1928, p. 48), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

The Regulation has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the districts of Hazaribagh, Ranchi, Palamau and Manbhum, and Pargana Dhalbhum, in the district of Singhbhum, in the Chota Nagpur Division, *see* Vol. IV, Part III.

The Regulation is in force in the Sonthal Parganas, *see* Vol. IV, Part IV; but its application is barred in the Angul District by the Angul Laws Regulation, 1913 (3 of 1913), s. 3(2), *post*, p. 768.

**OTHER ENACTMENTS.**—Further Regulations dealing with revenue-free lands are the Bengal Revenue-free Lands (Badshahi Grants) Regulation, 1793 (37 of 1793), *post*, p. 60, the Bengal Revenue-free Lands Regulation, 1800 (8 of 1800), *post*, p. 79, the Bengal Land-revenue Settlement (Resumed Kanungos and Revenue-free Lands) Regulation, 1825 (13 of 1825), *post*, p. 267, and the Bengal Revenue-free Lands Regulation, 1825 (14 of 1825), *post*, p. 271. The latter Regulation modifies Ben. Regs. 19 and 37 of 1793—*see* its first section, *post*, p. 271.

The rules prescribed in Ben. Regs. 19 and 37 of 1793, for determining the validity of grants for holding lands exempt from the payment of the public revenue have been declared applicable to grants for holding lands under *muharnari* or other tenures limiting the demand of the Government—*see* the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819 (2 of 1819), s. 4, *post*, p. 163.

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appropriate to his own use the difference between the value of such proportion of the produce and the sum payable to the public, whilst he continues to discharge the latter.

As a necessary consequence of this law, if a *zamindar* made a grant of any part of his lands to be held exempt from the payment of revenue, it was considered void, from being an alienation of the due of Government without its sanction.

Had the validity of such grants been admitted, it is obvious that the revenue of Government would have been liable to gradual diminution.

Previous, however, to the Company's accession to the *Diwani*, numerous grants of this description were made, not only by the *zamindars*, but by the officers of Government appointed to the temporary superintendence of the collection of the revenue, under the pretext that the produce of the lands was to be applied to religious or charitable uses.

Of these grants some were applied to the purposes for which they were professed to have been made, but in general they were given for the personal advantage of the grantee, or with a view to the clandestine appropriation of the produce to the use of the grantor, or sold to supply his private exigencies.

In conformity to the principles which prevailed under the Native Administration, the British Government have at various times declared all grants for holding land exempt from the payment of revenue made since the date of the Company's accession to the *Diwani*, without their sanction, illegal and void.

Their lenity, however, induced them to adopt it as a principle that grants of this description made previous to the date of the *Diwani*, and provided the grantees had obtained possession, should be held valid to the extent of the intentions of the grantor, as ascertainable from the terms of the writings by which the grants might have been made, or from their nature and denomination.

But no complete register of these exempted lands having been formed upon the Company's accession to the *Diwani*, nor subsequent to that period, many *zamindars*, as well as the temporary farmers of the public revenue, and the officers of Government to whom the collection of the revenue in the different districts has been occasionally committed, in consequence of the *zamindars* refusing to pay the revenue demanded of them, have availed themselves of the above-mentioned rule of limitation to make grants of extensive tracts of land to others, or in the names of their relations or dependents, for their own use, dating the deeds for

(Sec. 1.)

these alienations previous to the Company's accession to the *Diwani*, or procuring them to be registered in the zamindari records as having been alienated prior to that period.

Others have made such alienations without ante-dating the grants, and left it to the grantee to maintain himself in possession by such means as circumstances might afford, in the event of his title being brought into question.

The Governor General in Council deeming it incumbent on him to recover the public dues thus alienated in opposition to the ancient and existing laws of the country, as well as to resume the revenue of all lands the grants for which might expire; and as the proprietors of estates were not entitled to collect such of the public dues from the lands included in their estates, as Government had judged it advisable to transfer to individuals, or to resume those which had been alienated by themselves or others, the amount in both cases being excluded from the assets on which the settlement was to be concluded, it was made a rule at the time of forming the decennial settlement, and which has been re-enacted by section 36, Regulation 8, 1793,[<sup>1</sup>] that the *jama* assessed upon the estates of individuals was to be considered as exclusive and independent of all existing *lakhiraj* lands, whether exempted from the *khiraj* or public revenue, with or without due authority; and by the third clause of the seventh article of the Proclamation contained in Regulation 1, 1793,[<sup>2</sup>] which specifies the conditions under which Government declared the decennial settlement permanent, it is expressly stipulated that the Governor General in Council will impose such assessment as he may deem equitable on all lands at present alienated and paying no public revenue, which have been or may be proved to be held under illegal or invalid titles.

The Governor General in Council, however, at the same time that he is desirous of recovering the public dues from lands which have been illegally alienated, is equally solicitous that persons holding such grants under titles that are declared valid should be secured in the possession and enjoyment of their property.

It is likewise his wish that the recovery of the dues of Government from those lands which have been illegally alienated previous to the 1st December, 1790, should be attended with as little distress as possible to the possessors; and, to obviate all injustice or extortion in the inquiry into the titles of persons holding exempted lands, he has further resolved that the claims of the public on their lands (provided they register the

[1] The Bengal Decennial Settlement Regulation, 1793. It is printed

[2] The Bengal Permanent Settlement Regulation, 1793. It is printed

## (Sec. 2.)

grants as required in this Regulation) shall be tried in the Courts of Judicature, that no such exempted lands may be subjected to the payment of revenue until the titles of the proprietor shall have been adjudged invalid by a final judicial decree.

Upon the above grounds, and with a view to facilitate the recovery of the public dues from lands held exempted under invalid grants, as well as to prevent any similar alienations being hereafter made, to the prejudice of the security of the public revenue which has been assessed in perpetuity upon the estates of individuals; and further, that Government and the officers employed in the collection of the public revenue may at all times have in their possession a correct register of the lands in the several *zilas* held exempt from the payment of revenue, the following rules, containing the rules passed on the 1st December, 1790, with modifications, have been enacted.

Validity of grants of alienated land made before and after 12th August, 1765.

2. *First*.—All grants for holding land exempt from the payment of revenue made previous to the 12th August, 1765, the date of the Company's accession to the *Diwani*, by whatever authority, and whether by a writing or without a writing, shall be deemed valid, provided the grantee actually and *bonâ fide* obtained possession of the land so granted previous to the date above-mentioned, and the land shall not have been subsequently rendered subject to the payment of revenue by the officers or the orders of Government.

If it shall be proved, to the satisfaction of the Court, that the grantee did not obtain possession of the land so granted previous to the 12th August, 1765, or that he did obtain possession of it prior to that date, but that it has been since subjected to the payment of revenue by the officers or the orders of Government, the grant shall not be deemed valid.

Reference of doubtful claims to Governor-General in Council.

*Second*.—In the event, however, of a claim being preferred by any person to hold land exempt from the payment of revenue, under a grant made previous to the date of the Company's accession to the *Diwani*, and of it being proved, to the satisfaction of the Court in which the suit may be instituted in the first instance, or to which it may be appealed, that the grantee held the land exempt from the payment of revenue previous to that date, but that it was subjected to the payment of revenue posterior thereto by an officer of Government, and the Court shall entertain doubts as to the competency of such officer, under the powers vested in him, to subject the lands to the payment of revenue, the Court shall suspend its judgment and report the circumstances to the [1] [Local

[1] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 630.

## (Sec. 2.)

Government], to whom a power is reserved of determining whether such officer was or was not competent to subject the land to the payment of revenue; and, upon receiving the determination of the [1][Local Government], the Court is to decide accordingly.

No such claim, however, to hold exempt from the payment of revenue land that may have been subjected to the payment of revenue for the twelve years preceding the date on which the claim may be instituted shall be heard by any *Zila* or City Court, unless the claimant can show good and sufficient cause for not having preferred the claim to a [2] competent jurisdiction within the twelve years \* \* \* \* [3].

*Third.*—But no part of the two preceding clauses is to be construed to empower the Courts to adjudge any person, not being the original grantee, entitled to hold exempt from the payment of revenue land now subject to the payment of revenue, under a grant made previous to the Company's accession to the *Diwani*, the writing for which may expressly specify it to have been given for the life of the grantee only: or supposing no such specification to have been made in the writing, or the writing not to be forthcoming, or no writing to have been executed, where the grant, from the nature and denomination of it, shall be proved to be a life-tenure only accordingly to the ancient usages of the country.

No persons, not being original grantees, entitled to hold lands free of revenue.

*Fourth.*—Nor to entitle the heirs of any person now holding land exempt from the payment of public revenue under a grant made previous to the *Diwani*, to succeed to and hold such land exempt from the payment of revenue upon the demise of the present possessor, where the writing for such grant may expressly specify it to have been given for the life of the grantee only; or supposing no such specification to have been made in the writing, or the writing not to be forthcoming, or no writing to have been executed, where, from the nature and denomination of the grant, it shall be proved to be a life-tenure only, according to the ancient usages of the country.

Nor also heirs of present possessors.

Nor to entitle the heir to any such person to hold the lands exempt from the payment of revenue after his demise, supposing the writing for the grant not to specify whether it was to be considered hereditary or otherwise; unless it shall be proved, to the satisfaction of the Court, that the grant, from the nature and denomination of it, is hereditary according to the ancient usages of the country.

[1] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 630.

[2] *Sic* in Clarke.

[3] The words and figures "and proceeded in it, as required by section 14, Regulation 3, 1793," in s. 2, cl. (2), which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

## (Sec. 3.)

But upon the demise of the present possessor of any such grant, which may be adjudged not hereditary under this clause, if it shall appear that one or more successions, in virtue of whatever right, shall have taken place before the date of the *Diwani*, the lands shall not be subjected to the payment of revenue under the decree without the sanction of the [1] [Local Government], to whom a copy of the proceedings, and decree of the Court is to be transmitted, and to whom is reserved a power of declaring the lands subject to the payment of revenue or not, as may appear to [2] [it] proper.

Present  
possessors  
prohibited  
from  
transferring  
or mortgag-  
ing grants.

*Fifth.*—The present possessors of lands now exempt from the payment of revenue, under such life-grants made previous to the *Diwani*, and declared by the preceding clause not to be hereditary, are prohibited from selling or otherwise transferring them, or mortgaging the revenue of them for a longer period than their own lives, and all such transfers and mortgages are declared illegal and void.

It is to be understood, however, that if any such life-grants shall have been confirmed as hereditary tenures by Government, or by the officers of Government empowered so to confirm them, they are not to be liable to the payment of revenue on the death of the present possessor, and are to be excepted from the other rules contained in this and the preceding clause.

If doubts shall arise in any Court as to the competency of the authority of any officer of Government to confirm any such life-grant as hereditary, the Court is to suspend its judgment, and report the circumstances to the [1] [Local Government], to whom a power is reserved of determining finally whether such officer possessed competent authority to confirm the grant as hereditary or not, and the Court, upon receiving the determination of the [1] [Local Government] is to decide accordingly.

All grants  
made or  
confirmed  
since  
*Diwani*  
declared  
invalid

**3. First.**—All grants for holding land exempt from the payment of revenue, which may have been made since the 12th August, 1765, and previous to the 1st December, 1790, corresponding with [the 18th Aghan, 1197, Bengal era], the 10th Aghan, 1198, [3]  *Fasli*, the 18th Aghan, 1198, [4]  *Wilayati*, by any other authority than that of Government, and which may not have been confirmed by Government, or by any officer empowered to confirm them, are declared invalid.

[1] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 630.

[2] The word "him," in the original text, is to be read as if the word "it" were substituted therefor—see *ibid.*

[3] *i.e.*, 26th September, 1771.

[4] *i.e.*, 15th September, 1771.

## (Sec. 4.)

*Second.*—If doubts shall be entertained by any Court as to the competency of the authority of any officer to confirm any such grant, the Court is to suspend its judgement, and report the circumstances of the case to the [1] [Local Government], to whom a power is reserved of determining finally whether the officer possessed competent authority to confirm the grant, or otherwise, and the Court, upon receiving the determination of the [1] [Local Government], shall decide accordingly.

Courts how to proceed in case of doubt of authority of officer confirming grant.

*Third.*—The rule contained in clause First is not to be considered to extend to authorize the subjecting to the payment of revenue land held exempt from the payment of it under grants made previous to the commencement of [the Bengal year 1178 or] the [2] *Fash* or [3] *Wilayati* year 1179 (according as the land may be situated in [Bengal] Bihar or Orissa), under the signature of the chiefs of the late provincial councils and the seals of those councils, agreeably to an authority vested in them by Government for granting land to be held exempt from the payment of revenue, the annual produce of which did not exceed one hundred rupees.

Exception in favour of grants made by Chiefs of provincial councils

*Fourth.*—Nor to authorize the subjecting to the payment of revenue any land the grants for which, whether for the life of the grantee or otherwise, were made previous to the commencement of [the Bengal year 1178 or] the [2] *Fash* or [3] *Wilayati* year 1179 (according as the land may be situated in [Bengal,] Bihar and Orissa), where the quantity of land granted shall not exceed ten *bighas*, and the produce of it is *bond fide* appropriated as an endowment on temples, or to the maintenance of *Brahmans*, or other religious or charitable purposes.

And also of certain grants made for religious or charitable purposes.

The rule in this clause is declared to extend also to all grants of land whatever, not exceeding ten *bighas*, made previous to the *Diwani*, the produce of which may be now so appropriated.

4. This Regulation, as far as regards lands alienated previous to the 1st December, 1790, respects only the question whether they are liable to the payment of revenue or otherwise.

Disputes regarding proprietary right.

Every dispute or claim regarding the proprietary right in lands alienated previous to that date, and which, in conformity to this Regulation, may become subject to the payment of revenue, is to be considered as a matter of a private nature, to be determined by the Courts of *Diwani Adalat*, in the event of any dispute or claim arising respecting

[1] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 530.

[2] i.e., 26th September, 1771.

[3] i.e., 15th September, 1771.



## (Secs. 5-6.)

it between the grantee and the grantor, or their respective heirs or successors.

The grantees, or the present possessors, until disposed of by a decree of the *Diwani Adalat*, are to be considered as the proprietors of the land with the same right of property therein as is declared to be vested in proprietors of estates or dependent *taluk*s (according as the land may exceed or be less than one hundred *bighas* as specified in sections 6, 7 \* [1]), subject to the payment of revenue, and they are to execute engagements for the revenue with which their lands may be declared chargeable, either to Government, or to the proprietor or farmer of the estate in which the lands may be situated, or to the officer of Government (according as the revenue of the estate in which the land may be situated may be payable by the proprietor or a farmer, or collected *khas*), under the rules for the decennial settlement.

If by the decision of the *Diwani Adalat* the proprietary right in the land shall be transferred, the person succeeding thereto is, in like manner, to be responsible for the payment of the revenue assessed or chargeable thereon.

Effect of  
continuing  
proprietary  
right to  
grantee in  
possession.

**5.** By continuing the proprietary right in the land to the grantee or possessor, in the cases specified in the preceding section, instead of dispossessing him of the land altogether, according to former usage, and assessing the land in the mode prescribed in the two following sections, a liberal provision will be left to him.

Where the grant may have been made before [*the Bengal year 1173 or*], the [2] *Fasli* or [3] *Wilayati* year 1179, the proprietor will hold his land as an estate paying a fixed revenue of only half the amount assessed on other *mulqazari* lands in the country;

and, where the grant may have been made subsequent to the above mentioned periods, he will hold the land as subject to the payment of the same revenue as other lands assessed with revenue, under the rules for the decennial settlement, as hereafter directed.

To whom  
revenue  
assessed on  
lands not  
exceeding  
100 *bighas*  
alienated  
before  
1st Decem-  
ber 1790, is  
to belong.

**6.** The revenue assessable under section 9 on land not exceeding one hundred *bighas* of the measurement that may prevail in the *pargana* wherein it may be situated, and whether lying in one village, or two or more villages, and that may have been alienated by any one grant made previous to the 1st December, 1790, and which may be adjudged or become liable to the payment of revenue, shall belong to the person

[1] The word and figure "and 21," in s. 4, which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[2] i.e., 26th September, 1771.

[3] i.e., 15th September, 1771.

## (Secs. 7-8.)

responsible for the discharge of the revenue of the estate or dependent *taluk* in which the land may be situated, notwithstanding anything said in section 8, Regulation 1, 1793<sup>[1]</sup>;

and he shall not be liable to the payment of any additional revenue on account of the assessment which may be chargeable on such lands during the continuance of the engagement under which he may pay the revenue of such estate or dependent *taluk*, when the land may be so adjudged liable to the payment of revenue.

If the estate or dependent *taluk* shall be held *khas*, when the lands are decreed liable to the payment of revenue, the amount is to be collected by, and paid to, whomsoever the rents and revenue of the estate or *taluk* may be payable, until a settlement shall be concluded for the revenue of it, either with the proprietor or a farmer.

The land which may be so adjudged subject to the payment of the revenue is to be considered as a dependent *taluk*.

7. The revenue assessable under section 8 on land exceeding one hundred *bighas* of the measurement that may prevail in the *pargana* where it may be situated, and whether lying in one village, or two or more villages, and alienated by any one grant made previous to the 1st December, 1790, and which may be adjudged or become liable to the payment of revenue, is declared to belong to Government.

Revenue on lands exceeding 100 *bighas*, alienated prior to 1st December, 1790, to belong to Government.

The lands specified in this section, which may be adjudged liable to the payment of revenue, are to be considered as independent *taluks*.

8. *First*.—The amount of the revenue payable from the lands specified in section 7 is to be adjusted according to the following rules :

Rules for assessment under section 7.

*Second*.—If the grant shall have been made previous to [the Bengal year 1178 or] the [2] *Fasli* or [3] *Wilayati* year 1179 (according as the lands may be situated in [Bengal] Bihar or Orissa), the revenue to be paid to Government shall be equal to one-half of the annual produce of the land, calculating according to the rates at which other lands in the *pargana* of a similar description may be assessed.

If grant made previous to [Bengal year 1178, or] *Fasli* or *Wilayati* year 1179.

If any part of the land shall be uncultivated, the proprietor is to be required to bring it into cultivation, and to pay such *rasad* or progressive increase, to be regulated with a reference to the reduced rate of the

[1] The Bengal Permanent Settlement Regulation, 1793. It is printed *ante*, p. 3.

[2] i.e., 26th September, 1771.

[3] i.e., 15th September, 1771.

## (Sec. 9.)

assessment on the cultivated lands, as the Board of Revenue[<sup>1</sup>], with the sanction of the[<sup>2</sup>] [Local Government], may deem reasonable.

The produce of the land shall be ascertained by a survey and measurement, one-half of the expense attending which is to be defrayed by the proprietor, in the event of his agreeing to the *jama* required of him, and the other moiety by Government; or by such other mode of investigation as the Collector, [<sup>3</sup>] with the sanction of the Board of Revenue, [<sup>4</sup>] may judge advisable.

If the proprietor shall refuse to agree to the assessment, the lands are to be let in farm or held *khas*, under the rules prescribed in Regulation 8, 1793.[<sup>5</sup>]

If the proprietor shall agree to pay the revenue that may be required of him, the amount shall not be liable to any variation in future, but he and his heirs and successors shall hold the lands at such fixed revenue for ever.

If grant  
made after  
that time.

*Third.*— If the grant shall have been made subsequent to [the Bengal year 1178 or] the [<sup>6</sup>] *Vashi* or [<sup>6</sup>] *Wilagati* year 1179 (according as the lands may be situated in [Bengal], Bihar or Orissa), the revenue or *jama* to be paid to Government from the land shall be assessed agreeably to the rules prescribed in Regulation 8, 1793, [<sup>4</sup>] for forming the settlement of estates paying revenue to Government, and the produce shall be ascertained, and the expense of the investigation defrayed, in the manner specified with regard to the lands in the preceding clause.

If the proprietor shall refuse to agree to the assessment, the lands are to be let in farm or held *khas*, under the rules for the decennial settlement.

If the proprietor shall agree to pay the revenue that may be required of him, the amount shall not be liable to any variation in future, but he and his heirs and successors shall hold the land at such fixed revenue for

Rule for fixing revenue on land specified in section 6.

9. The rules in the preceding section are to be held applicable to the lands specified in section 6; with this difference, that the proprietor,

[1] As to the present constitution and powers of the Board of Revenue see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[2] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted thereof—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 630.

[3] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

[4] The Bengal Decennial Settlement Regulation, 1793. It is printed *ante*, p. 28.

[5] *i.e.*, 26th September, 1771.

[6] *i.e.*, 15th September, 1771.

## (Sec. 10.)

farmer, dependent *talukdar* or officer of Government to whom the revenue may be payable shall ascertain the produce of the lands without subjecting the grantee to any expense, and submit the accounts of it to the Collector,[<sup>1</sup>] who shall fix the revenue to be paid from the lands in perpetuity, reporting the amount for the confirmation of the Board of Revenue,[<sup>2</sup>] who are empowered, in cases in which it shall appear to them proper, to increase or reduce the amount.

If the proprietor shall agree to pay the revenue required of him, he and his heirs and successors shall hold the lands as a dependent *taluk*, subject to the payment of such fixed revenue for ever.

[<sup>3</sup>]10. All grants for holding land exempt from the payment of revenue whether exceeding or under one hundred *bighas*, that have been made since the 1st December, 1790, or that may be hereafter made, by any other authority than that of the [<sup>4</sup>] [Governor General in Council or the Local Government], are declared null and void, and no length of possession shall be hereafter considered to give validity to any such grant, either with regard to the property in the soil or the rents of it.

Grants made since 1st December, 1790, declared void

*And every person who now possesses, or may succeed to, the proprietary right in any estate or dependent taluk, or who now holds or may hereafter hold any estate or dependent taluk in farm of Government, or of the proprietor, or any other person, and every officer of Government appointed to make the collections from any estate or taluk held khas, is authorized and required to collect the rents from such lands at the rates of the pargana, and to dispossess the grantee of the proprietary right in the land, and to re-annex it to the estate or taluk in which it may be situated, without making previous application to a Court of Judicature, or sending previous or subsequent notice of the dispossession or annexation to any officer of Government ;*[<sup>5</sup>]

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 256.

[2] As to the present constitution and powers of the Board of Revenue see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[3] For a saving of s. 10, see the Bengal Land-revenue Settlement Regulation, 1825 (9 of 1825), s. 8, *post*, p. 261.

[4] The words "Governor General in Council," in the original text, are to be read as if the words "Governor General in Council or the Local Government," were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 630.

[5] So much of s. 10 as authorises and requires proprietors and farmers of estates and dependent *taluks* (in cases in which grants for holding land exempt from the payment of revenue have been made subsequent to the 1st December, 1790) "of their own authority to collect the rents of such land and to dispossess the grantees of the proprietary right in the land and to re-annex it to the estate or *taluk* in which it may be situate" has been repealed by the Bengal Rent Act, 1859 (10 of 1859), s. 28, printed in the Bengal Code, Vol. I, p. 387,

## (Secs. 11-15.)

nor shall any such proprietor, farmer or dependent *talukdar* be liable to an increase of assessment on account of such grant which he may resume and annul, during the term of the engagements that he may be under for the payment of the revenue of such estate or *taluk* when the grant may be so resumed and annulled.

The managers of the estates of disqualified proprietor, and of joint undivided estates, are authorized and required to exercise, on behalf of the proprietors, the powers vested in proprietors by this section.

How proprietors and farmers to recover revenue on lands specified in section 6.

**11.** Proprietors or farmers of land, or dependent *talukdars*, who may deem themselves entitled to the revenue of any land of the description of that specified in section 6 situated in their respective estate, farm or *taluks*, are to institute a suit for the recovery of it in the Court of *Diwani Adalat*.

Any proprietor or farmer of land, or dependent *talukdar*, or other person, subjecting such lands to the payment of revenue, without having previously obtained a judicial decree for that purpose, shall be liable to be sued for damages by the parties injured.

Where estates or dependent *taluks* may be held *khas*, the right of suing for the recovery of the revenue from the lands specified in section 6 is to be considered as vested in the party to whom the collections from the estate or *taluk* may be payable.

If the estate or *taluk* be held *khas* by Government, the *tahsildar* or other officer is to sue for the revenue chargeable on such lands in the room of the proprietors, but under the directions of the Collector.<sup>[1]</sup>

**12 to 14.** (*Suits by Collectors for the recovery of invalid lakhirai.*) *Rep. by the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819 (2 of 1819).*

Suits by or against Government.

**15.** The Collectors<sup>[1]</sup> of the revenue are to defend all suits that may be instituted against Government by any individual claiming a right to hold lands exempt from the payment of public revenue; and such suits, and the suits which the Board of Revenue<sup>[2]</sup> may direct the Collector<sup>[1]</sup> to institute, are to be defended and prosecuted by the *vakil* of Government under the instructions of the Collector<sup>[1]</sup>;

and in the event of Government being cast, either wholly or in part, or if the Collector shall<sup>[1]</sup> be dissatisfied with the decree in any respect, all the rules contained in section 30, Regulation 14, 1793,<sup>[3]</sup> and the

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

[2] As to the present constitution and powers of the Board of Revenue see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[3] Ben. Reg. 14 of 1793 was repealed by the Repealing Act, 1874 (16 of 1874); but this reference is saved by the proviso to that Act.

(Secs. 16-20.)

other sections in that Regulation respecting decisions given against a Collector or any Zila Court in suits instituted against him by any proprietor or farmer of land for sums of money demanded or actually received by him as arrears of revenue, are to be held applicable to such decree; with this difference—that the suit, from the commencement of it, is to be defended or carried on at the expense of Government, and in the event of the Board of Revenue<sup>[1]</sup> not deeming it proper to order an appeal against the decision of the Zila Court to be preferred to the Provincial Court of Appeal, or against the decision of the Provincial Court to the *Sadr Duran Adalat*, in the event of their ordering the cause to be appealed to the Provincial Court, and of its being given against them therein they are to report their reasons, in both cases, for not preferring the appeal, to the<sup>[2]</sup> [Local Government], who will direct the cause to be appealed or not, in either case as may appear to<sup>[3]</sup> [it] proper.

**16.** (Courts to award costs in cases of groundless prosecution.) *Rep. by the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819* (2 of 1819).

**17.** If it shall appear to any Court of Judicature during the course of a trial that a grant for land to be held exempt from the payment of revenue, dated prior to the 1<sup>st</sup> December, 1790, has been forged, or that the name of the original grantee has been erased and any other name substituted, or that any name not in the original grant has been inserted, or that the denomination of the tenure in the original grant has been erased or altered, or that the date of the grant has been changed, or that the grant has been ante-dated, the grant shall be adjudged null and void, as far as regards the exemption of the land from the payment of revenue, and the land shall be subjected to the payment of revenue accordingly.

Grants forged or altered in any respect or ante-dated, declared void.

**18.** (Persons concerned in fraud liable to criminal prosecution.) *Rep. by the Repealing Act, 1871* (16 of 1874).

**19.** (Revenue to be paid from date of first decree for resumption.) *Rep. by the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819* (2 of 1819).

**20.** Grants of land, which from the terms of the grant or the nature of the tenure are hereditary, and are declared valid by this Regulation, <sup>Transfer of grants.</sup>

[1] As to the present constitution and powers of the Board of Revenue see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[2] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 630.

[3] The word "him," in the original text, is to be read as if the word "it" were substituted therefor—see *ibid.*

## (Secs. 21-26.)

or which have been or may be confirmed by the British Government, or any of its officers possessing competent authority to confirm them, are declared transferable by gift, sale or otherwise;

and all persons succeeding to such grants, by whatever mode, are required to register their names in the office of the Collector<sup>[1]</sup> within six months after they may succeed to the grant.

But all such purchases are to be considered as made at the risk of the purchaser; and in the event of the grant not proving to be hereditary, or not to have been made or confirmed by the British Government, or its officers possessing competent authority, the transfer is not to preclude the land from being subjected to the payment of revenue under the Regulation.

**21, 22.** (*Payment of revenue where to be made; register of Lands held exempt from revenue prior to 1st December, 1790.*) Rep. by the Land Registration Act, 1876 (Ben. Act 7 of 1876).

**23.** (*Form for periodical Register.*) Rep. by the Repealing Act, 1868 (8 of 1868).

Time for  
registry of  
grants.

**24.** All persons actually holding lands exempt from the payment of public revenue, whether exceeding or under one hundred *bighas*, in virtue of grants made previous to the 1st December, 1790, and whether made or confirmed by the Government of the country for the time being, or any other authority, shall be allowed one year from the date of the publication prescribed in the following section to register the required particulars respecting their grants in the office of the Collector<sup>[1]</sup> of the revenue of the *zila* in which the lands may be situated.

**25.** (*Publication to be made, requiring all persons to register grants.*) Rep. by the Amending Act, 1903 (1 of 1903).

Lands not  
registered  
within pre-  
scribed  
time.

**26.** If any person in possession of any such grant of land now held exempt from the payment of revenue shall omit to register it by the time prescribed in the publication, together with as accurate a detail of the particulars thereby required as he may be able to furnish, the land included in the grant shall, by such omission, become subject to the payment of revenue in the same manner as if it had been adjudged liable to the payment of revenue by a final decree of a Court of Judicature, and the Collector,<sup>[1]</sup> if the land shall exceed one hundred *bighas*, shall proceed to assess the lands accordingly; and, if it shall be under one hundred *bighas*, the party to whom the revenue of the land may be payable under section 6 is empowered to assess the lands as therein directed.

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

## (Secs. 27-47.)

The Governor General in Council, however, reserves to himself the power of admitting any grant upon the register after the expiration of the prescribed time, in the event of the possessor of the land showing good and sufficient cause, to his satisfaction, for not having registered it within the limited period, and the Board of Revenue<sup>[1]</sup> are to report to the Governor General in Council every case in which persons who may have omitted to register their grants as required may appear to them entitled to have their grants admitted upon the register.

**27.** After the expiration of the period limited for registering grants, all grants not registered within the prescribed time, and which may not be subsequently admitted on the register by the Governor General in Council, are declared invalid, as far as regards the exemption from the payment of revenue, and the land shall be assessed with revenue as directed in section 26. Grants not registered within prescribed period, etc., invalid.

**28.** It is expressly declared, however, that the registry of grants under this Regulation is not to be considered as an admission of the right of the person in whose name they may be registered to the property in the soil, or of his title to hold the lands exempt from the payment of revenue. Effect of registry of lands.

Any person will be at liberty to sue him in the *Dirāni Adulat* for the former, and he will be liable to be sued for the recovery of the latter by the Collector<sup>[2]</sup> with the sanction of the Board of Revenue<sup>[1]</sup> in the event of it appearing to that Board that the lands are liable to the payment of revenue.

**29 to 34.** (*Preparation of registers; counterpart register; entries regarding exempted lands and documents respecting same.*) Rep. by the Land Registration Act, 1876 (Ben. Act 7 of 1876).

**35.** (*How separations and annexations of exempted lands are to be notified to the Courts.*) Rep. by the Amending Act, 1903 (1 of 1903).

**36 to 46.** (*Registers of intermediate resumptions, and periodical registers; correction of errors in same; registry of disputed grants; liability of holders of grants to furnish information; to whom copies of periodical registers are to be sent; penalty for receiving bribes in connection with the registry of grants.*) Rep. by the Land Registration Act, 1876 (Ben. Act 7 of 1876).

**47.** All the rules in this Regulation respecting lands now held, or that may be claimed to be held, exempt from the payment of revenue, Rules respecting life-grants applicable to grants for a term.

[1] As to the present constitution and powers of the Board of Revenue see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[2] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.



(Secs. 18-19.)

under life-grants made previous to the date of the Confirmation of the *Duan*, are to be considered equally applicable to grants made previous to that date for a term only.

Saving of  
grants made  
or confirmed  
by late  
superintend-  
ents of the  
*bazi-zamin*  
*daftar*, and  
of *badshahi*  
grants

**48.** No part of this Regulation is to be considered to annul any grants for holding land exempt from the payment of revenue made or confirmed by the late superintendent of the *bazi-zamin* in Bengal, in virtue of the powers vested in them.

**49.** Nor to extend to *jagiri*, *altamgha*, *madad-mush*, *amti* or other grants of land termed *badshahi* or royal, and held or stated to be held under a royal *farman*.

The rules applicable to such grants are contained in the relation of 1793 [1]

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[1] The Bengal Revenue-free Lands (Badshahi Grants) Regulation 1793, printed *post*, p. 60.

BENGAL REGULATION 37 OF 1793.

[THE BENGAL REVENUE FREE LANDS (BADSHAHI GRANTS) REGULATION, 1793.]

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## BENGAL REGULATION 37 OF 1793

[THE BENGAL REVENUE-FREE LANDS (BADSHAHI GRANTS)  
REGULATION, 1793.]]<sup>1</sup>

(1st May, 1793.)

**A Regulation for re-enacting, with modifications, the rules passed on the 23rd April, 1788, and subsequent dates, for trying the validity of the titles of persons holding or claiming a right to hold *altamgha*, *jaghi* and other lands exempt from the payment of public revenue, under grants termed *badshahi* or royal, and for determining when certain grants of that description shall be considered to have expired; and for fixing the amount of the public revenue to be assessed upon the lands the grants for which may expire or be adjudged invalid.**

Preamble.

1. By the ancient law of the country the ruling power is entitled to a certain proportion of the produce of every *bigha* of land, unless it transfers its right thereto for a term or in perpetuity.

As a necessary consequence of this law every grant or alienation of Government's proportion of the produce of lands without its sanction was considered null and void.

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[<sup>1</sup>] **SHORT TITLE.**—This short title was given by the Amending Act, 1903 (1 of 1903), Sch. I—*see post*, p. 617.

**LOCAL EXTENT.**—This Regulation was declared, by the Cuttack Land-revenue Regulation, 1805 (12 of 1805), s. 25 printed *post*, p. 93), to be in force, with modifications, in the *Zila* of Cuttack.

The Regulation was afterwards declared, by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (in General Acts, 1873-86, Ed. 1923, p. 48), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It is in force in the Sonthal Parganas, *see* Vol. IV, Part IV; but its application is barred in the Angul District by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 768.

**OTHER ENACTMENTS.**—Further Regulations dealing with revenue free lands are the Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1793 (19 of 1793), *ante*, p. 43, the Bengal Revenue-free Lands Regulation, 1800 (8 of 1800), *post*, p. 79), the Bengal Land-revenue Settlement (Resumed Kanungos and Revenue-free Lands) Regulation, 1825 (13 of 1825), *post*, p. 267, and the Bengal Revenue-free Lands Regulation, 1825 (14 of 1825), *post*, p. 271.

The rules prescribed in Regulations 19 and 37 of 1793 for determining the validity of grants for holding lands exempt from the payment of the public revenue have been declared applicable to grants for holding lands under *mukarrari* or other tenures limiting the demand of Government—*see* the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819 (2 of 1819), s. 4, *post*, p. 163.

**AMENDMENTS.**—Ben. Reg. 13 of 1825 modifies Ben. Reg. 37 of 1793 (*see* s. 5 of the former Regulation, *post*, p. 270); and Ben. Reg. 14 of 1825 modifies Ben. Regs. 13 and 37 of 1793 (*see* s. 1 of the former Regulation, *post*, p. 271).

(Sec. 1.)

Had the validity of such grants or alienation been admitted it is obvious that the public revenue would have been liable to gradual diminution.

Under the Native Government grants were occasionally made of the Government's share of the produce of lands, for the support of the families of persons who had performed public services, for religious or charitable purposes, for maintaining troops and for other services.

The British Government continued to the grantees or their heirs such of these grants as were hereditary, and were made before the date of the Company's accession to the *Diwani*, provided the grantees or their heirs had obtained possession previous to that date; but those grants which were for life only have been invariably considered as resumable on the death of the grantees.

No complete register of these grants having been formed on the Company's accession to the *Diwani*, nor subsequent to that period, many persons have retained possession of lands under fabricated or ante-dated grants, or have succeeded to life-grants on the demise of the original grantee or former possessor, without the sanction of Government.

The Governor General in Council deeming it incumbent on him to resume the public dues from lands held under invalid tenures, as well as the revenue of all lands the grants for which might expire, and as the proprietors of estates were not entitled to collect such of the public dues from the lands included in their estates as Government had judged it advisable to transfer to individuals, or to resume those which had been alienated or were appropriated without authority, the amount of the revenue of the lands having in both cases been excluded from the assets on which the settlement was to be concluded, it was made a rule at the time of forming the decennial settlement, and which has been re-enacted by section 36, Regulation 8, 1793<sup>[1]</sup>, that the *jama* assessed upon the estates of individuals was to be considered as exclusive and independent of all existing *lakhiraj* lands, whether exempted from the *khiraj* or public revenue, with or without due authority;

and by the third clause of the seventh article of the Proclamation contained in Regulation 1, 1793,<sup>[2]</sup> which specifies the conditions under which Government declared the decennial settlement permanent, it is expressly stipulated that the Governor General in Council will impose such assessment as he may deem equitable on all lands at present alienated and paying no public revenue which have been or may be proved to be held under illegal or invalid titles.

## (Sec. 2.)

The Governor General in Council, however, at the same time that he is desirous of recovering the public dues from lands held under invalid tenures, is equally solicitous that persons holding lands under grants that are declared valid should be secured in the quiet possession and enjoyment of them.

With this view, and to obviate all injustice or extortion in the inquiry into the titles of persons possessing lands under such grants, he has resolved that all claims of the public for the resumption of such grants (provided the grantees or persons in possession register their grants as required in this Regulation) shall be tried in the Courts of Judicature, that no such grants may be resumed until the title of the grantee or present possessor shall have been adjudged invalid by a final judicial decree.

Upon the above grounds, and with a view to facilitate the resumption of invalid grants, as well as to prevent any grants being hereafter made without the authority of Government, and further that Government and its officers may at all times have in their possession a correct register of the lands in the several *zilas* held exempt from the payment of revenue under *badshahi* grants, the following rules, containing the rules passed on the 23rd April, 1788, and subsequent dates, with modifications, have been enacted.

*Badshahi*  
grants made  
before  
*Diwani*.

2. *First*.—*Altamgha*, *jagir*, *aima*, *madudmash* or other *badshahi* grants for holding land exempt from the payment of revenue, made previous to the 12th August, 1765, the date of the Company's accession to the *Diwani*, shall be deemed valid, provided the grantee actually and *bonâ fide* obtained possession of the land so granted previous to that date and the grant shall not have been subsequently resumed by the officers or the orders of Government.

If it shall be proved to the satisfaction of the Court that the grantee did not obtain possession of the land so granted previous to the 12th August, 1765, or that he did obtain possession of it prior to that date, but that it has been since resumed by the officers or the orders of Government, the grant shall not be deemed valid.

Procedure in  
case of doubt  
as to  
authority of  
officer having  
resumed  
grants.

*Second*.—In the event, however, of a claim being proffered by any person to hold land exempt from the payment of revenue, under a *badshahi* grant made previous to the date of the Company's accession to the *Diwani*, and on it being proved to the satisfaction of the Court in which the suit may be instituted in the first instance, or to which it may be appealed, that the grantee held the land exempt from the payment of revenue, but that it was subjected to the payment of revenue posterior thereto by an officer of Government, and the Court shall entertain doubts

## (Sec. 2.)

as to the competency of such officer, under the powers vested in him, to resume the grant and subject the lands to the payment of revenue, the Court shall suspend its judgment and report the circumstances to the<sup>[1]</sup> [Local Government], to whom a power is reserved of determining whether such officer was or was not competent to resume the grant; and, upon receiving the determination of the<sup>[1]</sup> [Local Government], the Court is to decide accordingly.

No such claim, however, to hold exempt from the payment of revenue, land that may have been subjected to the payment of revenue for the twelve years preceding the date on which the claim may be instituted, shall be heard by any *Zila* or City Court, unless the claimant can show good and sufficient cause for not having preferred the claim to a competent authority within the twelve years \* \* \*<sup>[2]</sup>.

*Third.*—But no part of the two preceding clauses is to be construed to empower the Courts to adjudge any person, not being the original grantee entitled to hold land paying revenue to Government, exempt from the payment of revenue, under a *jaqir* or other grant made previous to the Company's accession to the *Diwani*, where the grant may expressly specify it to have been given for the life of the grantee only; or, supposing no such specification to have been made in the grant, or the grant not to be forthcoming, where the grant, from the nature and denomination of it, shall be proved to be a life-tenure only, according to the ancient usages of the country.

*Fourth.*—Nor to entitle the heirs of any person holding lands exempt from the payment of public revenue under a *jaqir* or other *badshahi* life-grant made previous to the *Diwani* to succeed to and hold such land exempt from the payment of revenue upon the demise of the present possessor; where the grant may expressly specify it to have been given for the life of the grantee only, or supposing no such specification to have been made in the grant, or the grant not to be forthcoming, where from the nature and denomination of the grant it shall be proved to be a life-tenure only, according to the ancient usages of the country.

*Fifth.*—The present possessors of lands now exempt from the payment of revenue under such *jaqir* or other life-grants made previous to the *Diwani* and declared by the preceding clause not to be hereditary, are prohibited from selling or otherwise transferring them, or mortgaging the revenue of the lands for a longer period than their own lives.

[1] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 630.

[2] The words and figures "and proceeded in it as required by section 14, Regulation 3, 1793," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

(Secs. 3-6.)

and all such transfers and mortgages which have been or may be made are declared illegal and void.

Certain grants made or confirmed since *Diwani* declared invalid.

Procedure in cases of doubt of authority of officer confirming grant.

3. *First*.—All *badshahi* grants for holding land exempt from the payment of revenue, which may have been made since the 12th August 1765, by any other authority than that of Government and which may not have been confirmed by Government, or by any officer empowered to confirm them, are declared invalid.

*Second*.—If doubts shall be entertained by any Court as to the competency of the authority of any officer to confirm any such grant, the Court is to suspend its judgment and report the circumstances of the case to the [1] [Local Government], to whom a power is reserved of determining finally whether the officer possessed competent authority to confirm the grant, or otherwise, and the Court, upon receiving the determination of the [1] [Local Government], shall decide accordingly.

Questions regarding proprietary right to be determined in *Diwani Adalat*.

4. It is to be understood that this Regulation respects only the Government proportion of the revenue arising from lands held or claimed to be held under *badshahi* grants, and whether Government is entitled to resume or retain such revenue or otherwise.

Every dispute or claim regarding the *zamindari* or proprietary right in lands included in any grant is to be considered as a matter of a private nature between the contending parties, and is to be determined in the *Diwani Adalat*.

Collectors to attach revenue of lands in escheated grants.

5. When a *jagir* or other life-grant shall escheat[2] to Government, the Collector[ ] is immediately to attach the revenue of the lands and report the circumstance to the Board of Revenue,[4] who are to obtain the orders of the [1] [Local Government] regarding the resumption of the grant.

Assessment of lands included in resumed grants.

6. When any *badshahi* grant shall be resumed or expire, or escheat[2] to Government, the revenue to be paid to Government from the lands included in it shall be assessed, and the settlement made in perpetuity, agreeably to the rules for the decennial settlement contained

[1] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government," were substituted therefor: see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 630.

[2] As to the duties of the Board of Revenue in respect of escheats, see the Bengal Charitable Endowments, Public Buildings and Escheats Regulation, 1810 (19 of 1810), s. 7, *post*, p. 111.

[3] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

[4] As to the present constitution and powers of the Board of Revenue see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

(Secs. 7-10.)

in Regulation 8, 1793,[<sup>1</sup>] with the person possessing the *zamindari* or proprietary right in the lands, whoever he may be.

If the proprietor shall refuse to pay the *jama* demanded of him, the land shall be held *khas* or let in farm, as directed in that Regulation.

**7 to 9.** (*Suits by Collectors for the recovery of invalid lakhiraj.*)  
Rep. by the Bengal Land-revenue Assessment Regulation, 1819 (2 of 1819).

**10.** Any person having a claim to hold lands paying revenue, exempt from the payment of revenue under a *badshahi* grant, must institute his claim against Government, who alone can be the defendant in such suits, in the *Diwani Adalat* of the *zila*, in the same manner as in cases where individuals may claim a right to hold lands paying revenue exempt from the payment of revenue under grants not of the description of those termed *badshahi*, in virtue of Regulation 19, 1793.[<sup>2</sup>]

Suits against Government by persons claiming to hold lands paying revenue, exempt from revenue under *badshahi* grants.

The Collectors[<sup>3</sup>] of the revenue are to defend all such suits as may be instituted against Government, and such suits, and the suits which the Board of Revenue[<sup>4</sup>] may direct the Collector[<sup>3</sup>] to institute, are to be defended or prosecuted by the *vakil* of Government, under the instructions of the Collector;[<sup>5</sup>]

and in the event of Government being cast, either wholly or in part, or if the Collector[<sup>3</sup>] shall be dissatisfied with the decree in any respect, all the rules contained in section 30, Regulation 14, 1793,[<sup>7</sup>] and the other sections in that Regulation respecting decisions given against a Collector in any *Zila* Court, in suits instituted against him by any proprietor or farmer of land, for sums of money demanded or actually received by him as arrears of revenue, are to be held applicable to such decree, with this difference, that the suit, from the commencement of it, is to be defended or carried on at the expense of Government. and in the event of the Board of Revenue[<sup>4</sup>] not deeming it proper to order an appeal from the decision of the *Zila* Court to be preferred \* \* \* [<sup>6</sup>]

[<sup>1</sup>] The Bengal Decennial Settlement Regulation, 1793. It is printed *ante*, p. 28.

[<sup>2</sup>] The Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 43.

[<sup>3</sup>] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

[<sup>4</sup>] As to the present constitution and powers of the Board of Revenue see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[<sup>5</sup>] Ben. Reg. 14 of 1793 was repealed by the Repealing Act, 1874 (16 of 1874); but this reference is saved by the proviso to that Act.

[<sup>6</sup>] The words "to the Provincial Court of Appeal, or from the decision of the Provincial Court," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.



## (Secs. 11-15.)

to the *Sadr Diwani Adalat*, \* \* \* \*<sup>[1]</sup> they are to report their reasons \* \*<sup>[2]</sup> for not preferring the appeal to the <sup>[3]</sup>[Local Government], who will direct the cause to be appealed or not, in either case, as may appear to<sup>[4]</sup> [it] proper.

**11.** (*Courts to award costs in case of groundless prosecution.*) Rep. by the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819 (2 of 1819).

Grants  
forged or  
altered in  
any respect,  
or ante-  
dated  
declared  
void.

**12.** If it shall appear to any Court of Judicature, during the course of a trial, that a grant has been forged, or that the name of the original grantee has been erased and any other name substituted, or that any name not in the original grant has been inserted, or that the denomination or the terms of the tenure in the original grant have been erased or altered, or that the date of the grant has been changed, or that the grant has been ante-dated, the grant shall be adjudged null and void.

**13.** (*Persons concerned in frauds liable to criminal prosecution.*) Rep. by the Repealing Act, 1874 (16 of 1874).

**14.** (*Revenue to be paid from date of first decree of resumption.*) Rep. by the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819 (2 of 1819).

Transfer of  
grants.

**15.** *Allamgha, aima and madadmash grants* are to be considered as hereditary tenures.

These and other grants, which from the terms or nature of them may be hereditary and are declared valid by this Regulation or which have been or may be confirmed by the British Government, or any of its officers possessing competent authority to confirm them, are declared transferable by gift, sale or otherwise, and all persons succeeding to such grants, by whatever mode, are required to register their names in the office of the Collector, within six months after they may succeed to the grant.

But all such purchases are to be considered as made at the risk of the purchaser; and in the event of the grant not proving to be hereditary, or not to have been made or confirmed by the British Government, or its officers possessing competent authority, the transfer is not to preclude the land from being subjected to the payment of revenue under this Regulation.

[1] The words "in the event of their ordering the cause to be appealed to the Provincial Court, and of its being given against them therein," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[2] The words "in both cases," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[3] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 630.

[4] The word "him," in the original text, is to be read as if the word "it" were substituted therefor—see *ibid.*

(Secs. 16-23.)

*Jagirs* are to be considered as life-tenures only, and with all other life-tenures are to expire with the life of the grantee, unless otherwise expressed in the grant.

**16 to 18.** (*Record of lands which may become liable to, or exempt from, the payment of revenue; register of badshahi grants; form of periodical register*) Rep by the Land Registration Act, 1876 (Ben. Act 7 of 1876)

**19.** All persons actually holding lands exempt from the payment of public revenue under *badshahi* grants, and whether made or confirmed by the Government of the country for the time being, or by whatever authority shall be allowed one year, from the date of the publication prescribed in the following section, to register the required particulars respecting their grants in the office of the Collector of the revenue<sup>[1]</sup> of the *zila* in which the lands may be situated. Time for registry

**20.** (*Publication to be made, requiring all persons to register grants.*) Rep. by the Amending Act, 1903 (1 of 1903).

**21.** If any person in possession of any such grant that may be now in force, shall omit to register it by the time prescribed in the publication, together with as accurate a detail of the particulars thereby required as he may be able to furnish, the grant shall, by such omission, become subject to resumption, and the lands shall become liable to the payment of revenue to Government. Grants not registered within prescribed time liable to resumption.

The Governor General in Council, however, reserves to himself the power of admitting any grant upon the register after the expiration of the prescribed time, in the event of the possessor showing good and sufficient cause, to his satisfaction, for not having registered it within the limited period, and the Board of Revenue<sup>[2]</sup> are to report to the Governor General in Council every case in which persons who may have omitted to register their grants as required may appear to them entitled to have their grants admitted upon the register.

**22.** After the expiration of the period limited for registering grants, all grants not registered within the prescribed time, and which may not be subsequently admitted on the register by the Governor General in Council, are declared forfeited, and the lands shall be assessed with revenue, agreeably to the rules prescribed for the decennial settlement. Grants not registered considered forfeited.

**23.** It is expressly declared, however, that the registry of a grant under this Regulation is not to be considered as an admission of the grant.

[1] As to the exercise of functions of Collectors by other officers, see the Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, post, p. 536.  
[2] As to the present constitution and powers of the Board of Revenue and Office Board of Revenue Act, 1913 (31) and O. Act 1 of 1913, see this Code.

(Secs. 24-42.)

of the person in whose name it may be registered to the property in the soil, nor of the validity of his grant.

Any person will be at liberty to sue in the *Diwani Adalat* for the former, and he will be liable to be sued for the resumption of the grant by the Collector,[<sup>1</sup>] with the sanction of the Board of Revenue,[<sup>2</sup>] in the event of it appearing to that Board that the grant is invalid.

**24.** (*Preparation of register upon expiration of period limited for registry of grants.*) Rep. by the Land Registration Act, 1876 (Ben. Act 7 of 1876).

**25.** (*Preparation of second periodical register.*) Rep. by the Repealing Act, 1874 (16 of 1874).

**26 to 29.** (*Counterpart register by whom to be kept, in what native languages; manner of recording resumptions, etc.; documents respecting grants by whom to be furnished.*) Rep. by the Land Registration Act, 1876 (Ben. Act 7 of 1876).

**30.** (*Separations and annexations of exempted lands how notified to Courts.*) Rep. by the Amending Act, 1903 (1 of 1903).

**31 to 33.** (*Register of intermediate occurrences not to fall into arrear; counterpart of same by whom to be kept; manner of correcting errors in registers.*) Rep. by the Land Registration Act, 1876 (Ben. Act 7 of 1876).

**34.** (*Manner of correcting errors in counterpart registers.*) Rep. by the Repealing Act, 1874 (16 of 1874).

**35 to 41.** (*Registry in case of proprietary right being under litigation; penalty for not furnishing information; to whom copies of periodical registers are to be sent; registers to be carefully preserved; from what materials the periodical register commencing with 1207 and subsequent registers, are to be formed; penalty for receiving bribes* Rep. by the Land Registration Act, 1876 (Ben. Act 7 of 1876).

**42.** No part of this Regulation is to be considered to extend to lands held, or stated to be held, exempt from the payment of public revenue under grants not being of the description of those termed *badshahi* or royal.

The rules applicable to such grants are contained in Regulation 19, 1793.[<sup>3</sup>]

[<sup>1</sup>] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

[<sup>2</sup>] As to the present constitution and powers of the Board of Revenue see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[<sup>3</sup>] The Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 43.

## BENGAL REGULATION 38 OF 1793.

[THE INDIAN CIVIL SERVICE (BENGAL) LOANS PROHIBITION  
REGULATION, 1793].<sup>[1]</sup>

(1st May, 1793.)

**A Regulation for re-enacting, with modifications, such part of the Rule passed on the 27th June, 1787, as prohibits covenanted Civil Servants of the Company employed in the administration of justice or the collection of the public revenue lending money to *zamindars*, independent *talukdars* or other actual proprietors of land, or dependent *talukdars* or farmers of land holding farms immediately of Government, or the under-farmers or *rai-yats* of the several descriptions of proprietors and farmers of land above-mentioned, or their respective sureties \* \* \*.**<sup>[2]</sup>

**1.** At an early period after the establishment of the British Govern- **Preamble.**  
ment in this country the servants of the Company employed in the administration of justice and the collection of revenue were prohibited from lending money to the landholders and farmers, and others concerned in the collection or payment of the revenue, in order to guard against the abuses that the powers with which they were invested would have enabled them to practise had they been permitted to engage in such transactions with individuals subject to their official control and authority.

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<sup>[1]</sup> **SHORT TITLE.**—This short title was given by the Amending Act, 1897 (5 of 1897), Sch. III—*see post*, p. 544

**LOCAL EXTENT.**—Ss. 1 and 2 of this Regulation have been declared, by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed in General Acts, 1873-86, Ed. 1928, p. 48), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

The same sections have been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 3, to be in force in the districts of Hazaribagh, Ranchi, Palamau and Manbhum, and Parganas Dhalbhum and the Kolhan, in the district of Singhbhum, in the Chota Nagpur Division, *see* Vol. IV, Part III. It is also in force in the Sonthal Parganas, *see* Vol. IV, Part IV.

Its application is barred in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 768.

**APPLICATION.**—The present Regulation relates to loans *by* officials. As to loans *to* officials, *see* the Indian Civil Service (Bengal) Loans Prohibition Regulation, 1823 (7 of 1823), *post*, p. 246.

<sup>[2]</sup> The remainder of the title, which was repealed by the Repealing and Amending Act, 1891 (12 of 1891), is omitted.

(Secs. 2-6)

This rule was incorporated with the Judicial Regulation passed on the 5th July 1791 and has since continued in force.

The rules above mentioned

are

Covenanted  
servants  
prohibited  
lending  
money to  
proprietors,  
etc. of land

**2.** The Judges and Magistrates of the Zillah [1] Court [2] and their Assistants or other officers being covenanted servants of the Company and the Collectors of the revenue and their Assistants are prohibited lending money directly or indirectly to any proprietor or farmer of land or dependent *talukdar* or under farmer or *raiat* or their sureties and all such loans as [3] may be hereafter made are declared not recoverable in any Court of Judicature.

**3 to 6.** (*Europeans possessing land liable to be dispossessed*  
*European mortgagees not to have possession of land held by*  
*Europeans to be measured annual statements of land held by*  
*Europeans to be sent to Board of Revenue & Reg. by the Repealing*  
*Act, 1868 (& of 1865)*

[1] Portion of s. 1 which was repealed by the Repealing and Amending Act 1891 (12 of 1891), is omitted.

[2] The words "and City" which were repealed by Repealing Act 1874 (16 of 1874) are omitted.

[3] The words "the Judges of the Provincial Court of Appeal and the Court of Circuit and the Registrar of the respective Court" which were repealed by Repealing Act, 1874 (16 of 1874) are omitted.

[4] The word "have been made in opposition to the repeated prohibition of Government or which," which were repealed by the Amending Act 1903 (1 of 1903) are omitted.

# BENGAL REGULATION 3 OF 1794.

(THE BENGAL NATIVE REVENUE-OFFICERS REGULATION, 1794).<sup>[1]</sup>

(14th March, 1794.)

A Regulation \* \* \*<sup>[2]</sup> for prescribing the process by which *tahsildars* are to demand payment of arrears ; and for enabling the Collectors to recover from Native officers employed under them public \* \* \*<sup>[3]</sup> papers which they may \* \* \*<sup>[4]</sup> retain \*.<sup>[5]</sup>

1 to 11. (Revenue when payable; restriction on confinement for arrears, demand of arrears; sale; penalty on defaulters; recovery of *ikab*; attachment of lands; resistance to attachment; partial repeal of Reg. 14 of 1793.) Rep. by the Repealing Act, 1874 (16 of 1874).

12. (Recovery by proprietors and farmers of land of sums exacted from them beyond their engagements.) Rep. by the Public Demands Recovery Act, 1880 (Ben. Act 7 of 1880).

13. When arrears shall become due from proprietors or farmers of land, whose revenue may be made payable to a *tahsildar* or other officer appointed by Government to collect it, such officer is to demand the

How *tahsildars* or other public officers are to require payment of arrears from proprietors or farmers paying revenue to them.

[1] SHORT TITLE.—This short title was given by the Amending Act, 1903 (1 of 1903), s. 1 see *post*, p. 618.

LOCAL EXTENT.—This Regulation (ss. 13, 16 to 18 and 20) has been declared, by the Law, Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1873-86 Ed. 1928, p. 48), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the districts of Hazaribagh, Ranchi, Palamau and Munbhum, and Pargana Dhalbhum, in the district of Singhbhum, in the Chota Nagpur Division, see Vol. IV, Part III;

The application of the Regulation in the de-regulationised tracts in Bihar and Orissa is barred as follows, namely:—

in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 768; and

in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 5 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, *post*, p. 700.

[2] The words "for exempting proprietors of land (with certain exceptions) from being confined for arrears of revenue and," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[3] The words "money or," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[4] The words "embezzle or," which were repealed by *ibid*, are omitted.

[5] The words "and for expediting the trial of causes relating to the public revenue or the rents of individuals," which were repealed by the Amending Act, 1891 (12 of 1891), are omitted.

(Secs. 14-16.)

payment of the arrears by the same process as Collectors are required to observe in requiring discharge of arrears \* \* \* [1].

If the defaulter shall not liquidate the arrears by the prescribed period, the *tahsildar* or other officer is to report the amount of the arrear to the Collector,[2] who is to proceed to the recovery of it by the same process as he is directed to observe in recovering arrears due from proprietors or farmers paying revenue immediately to the treasury of the *zila*.

**14, 15.** (*Imprisonment under Reg. 11 of 1793; security for personal appearance of Native officers.*) Rep. by the Repealing Act, 1874 (16 of 1874).

Collectors  
how to  
proceed to  
recover  
papers  
in possession  
of Native  
officers.

[3] **16.** If a Collector[4] shall have a claim, on the part of Government, on any of the Native officers described in the preceding section, [5] for [6] papers belonging to Government, he is to require [7] the delivery of the papers, by a writing under his official seal and signature and the signature of his [8] head Native officer of his *daftar* for the time being specifying [9] the particular papers required, and the date and place that may be fixed for the delivery of the [10] papers.

If the officer shall not [11] deliver up the papers by the limited time, the Collector[1] is empowered to apprehend him, and convey him to the gaol of the *Diwani Adalat* of the *zila*, the Judge of which Court shall detain him in confinement until [12] he shall have delivered up the papers.

[1] The words and figures "by section 3, Regulation 14, 1793," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[2] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

[3] S. 16, so far as it relates to the recovery of money belonging to the Government, was repealed by the Public Demands Recovery Act, 1880 (Ben. Act 7 of 1880).

[4] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

[5] S. 15 has been repealed. The Native officers described in it are "*tahsildars, sezawals, amins, shawistadars, munshis, mukurars*, and all native officers entrusted with the receipt or payment of public money or the charge of public accounts."

[6] The words "a balance of accounts, or money or," which were repealed by the Amending Act, 1903 (1 of 1903) are omitted.

[7] The words "the payment of the money or," which were repealed by *ibid*, are omitted.

[8] The words "*diwan* or other," which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

[9] The words "the amount of the money or," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[10] The words "money or," which were repealed by *ibid*, are omitted.

[11] The words "discharge the money or," which were repealed by *ibid*, are omitted.

[12] The words "the sum demanded of him shall be discharged or," which were repealed by *ibid*, are omitted.

(Secs. 17-18.)

\* \* \* \* \*

\*[1]

In the event of the death of any such officer, the surety is to be exonerated from all responsibility, and the Collector<sup>[2]</sup> is to proceed against his heirs, by a regular suit in the Court to which they may be amenable, for any claims which Government may have upon the deceased.

The suit is to be carried on by the *vakil* of Government and at the public expense, and the rules in Regulation 14, 1793,<sup>[3]</sup> regarding suits so carried on by the Collectors, are to be held applicable to it.

[1] 17. If any such Native officer, who may have retained public Collectors  
 \* [5] papers in his possession, shall abscond or not be forthcoming, how to  
 the Collector<sup>[2]</sup> may proceed against the surety upon his engagement, proceed  
 or apprehend the offender and commit him to prison, if he be within where officers  
 the limits of the *zila*; or, if he shall have taken refuge in any other abscond or  
*zila* [6] and the Collector<sup>[2]</sup> shall deem it necessary to require are not  
 his personal attendance that he may proceed against him instead of his forthcoming.  
 surety, the Collector<sup>[2]</sup> is to apply to the Judge of the *zila* to request  
 the Judge within whose jurisdiction the officer may be or reside, to  
 cause him to be apprehended.

The Judge to whom the application may be made is to convey the officer in safe custody to the gaol of the *zila* from which he may have absconded.

[4] 18. If a Collector<sup>[2]</sup> shall have occasion to require any such Collector  
 officer to attend to adjust his accounts, that the sum due from him how to  
 may be ascertained, and he shall not attend upon being required by proceed in  
 writing to that effect, under the official seal and signature of the case of  
 Collector to be fixed up in his *cutcherry* and at the place in the *zila* at officer  
 which the officer may have last resided, the Collector<sup>[2]</sup> is empowered absconding  
 to prepare the most accurate statement, that he may be able, of the without  
 \* \* \* [5] papers in the possession of such officer, and proceed against having  
 the surety, upon his engagement, for the \* \* \* [7] papers, in the adjusted  
 purpose.

[1] Certain clauses as to attachment and sale of property, which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[2] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

[3] Ben. Reg. 14 of 1793 was repealed by the Repealing Act, 1874 (16 of 1874); but this reference is saved by the proviso to that Act.

[4] Ss. 17 and 18, so far as they relate to the recovery of money belonging to the Government, were repealed by the Public Demands Recovery Act, 1880 (Ben. Act 7 of 1880).

[5] The words "money or," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[6] The words "or in either of the cities of Patna, Dacca, or Murshidabad," which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

[7] The words "balance or," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.



(Sees. 19-20.)

same manner as if the accounts had been adjusted, and the list of the papers prepared in the presence of the officer;

or he may cause the officer to be apprehended by his own authority under section 16, if he be within the limits of the *zila*, or, if he shall have taken up his abode in any other *zila*, [1] by application to the Judge, in the manner directed in section 17.

If it should afterwards appear, upon inquiry before the Court [2] that the papers required were not in his possession, the Collector shall not be liable to pay any damages for having confined him, and all costs that may be incurred in the suit or inquiry shall be paid by the officer.

**19.** (*Officer or sureties confined for money demand to be received in certain cases.*) Rep. by the Amending Act, 1903 (1 of 1903).

Native  
officers or  
their sureties  
may sue  
Collector  
whilst in  
confinement.

[3]**20.** If any such Native officer, or his surety, shall be committed to custody by the Collector [4] [5] he shall [6] be at liberty, whilst in confinement, to sue the Collector by whom he may have been confined, should he deem the demand upon him unjust.

**21, 22.** (*Appointment of Vakils to defend certain suits; days to be set aside by certain Courts for trial of suits respecting rent or revenue.*) Rep. by the Repealing Act, 1874 (16 of 1874).

[1] The words "or in either of the cities of Patna, Dacca" were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

[2] The words "that no part, or a portion only, of the" [3] he from him, or", which were repealed by *ibid*, are omitted.

[3] S. 20, so far as it relates to the recovery of money held was repealed by the Public Demands Recovery Act, 1880 (Ben. Act 7 of 1880).

[4] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

[5] The words and figure: "and shall not obtain his release in the mode specified in section 19," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[6] The word "nevertheless," which was repealed by *ibid*, is omitted.

## BENGAL REGULATION 5 OF 1799

### THE BENGAL WILLS AND INTESTACY REGULATION 1799 [1]

(3rd May, 1799)

**Regulation to limit the interference of the Zila [ ] Court, of District Judges in the execution of wills and administration to the estate of persons dying intestate.**

**1.** Doubts having been entertained to what extent and in Preamble what manner the Judges of the Zila [ ] Courts of the *Diuani Adalat* in the Provinces of [Bengal] Bihar Orissa [and Benares,] are authorised to interfere in cases wherein the inhabitants of the above Province may have left wills at their decease and appointed executors to carry the same into effect or may have died intestate leaving an estate to be administered and with a view to remove all doubts on the authority of the [ ] Courts in such cases and to apply thereto, as far as possible the principle [\*] that in suits regarding succession and inheritance the Muhammedan laws with respect to

[1] SHORT TITLE.—This short title as given by the Amending Act, 1897 (5 of 1897) Sch. III is *post* p. 544.

LOCAL EXTENT.—The Regulation was passed for the whole of the former Province of Bengal, *see* s. 1.

It has been declared by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed in General Act, 1873-86 Ed. 1928 p. 48) to be in force throughout the former Province of Bengal except as regards the Scheduled Districts.

It has been declared by a notification under the Scheduled Districts Act, 1874 (14 of 1874) section 3 to be in force in the districts of Hazaribagh, Ranchi, Palamau and Munbhum and Pargana Dhalbhum in the district of Singhbhum in the Chota Nagpur Division *see* Vol. IV, Part III.

The application of the Regulation in the deregulationised tracts in Bihar and Orissa is, based as follows, namely:—

in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2) *post* p. 768 and

in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872) s. 3 (2) as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (5 of 1899), s. 3, *post* p. 700.

JUDGES.—For power to authorize any Subordinate Judge or *Munsif* to take cognizance of proceedings under this Regulation, *see* the Bengal, Agra and Assam Civil Courts Act, 1887 (12 of 1887) s. 23, *post* p. 520.

RULES AND ORDERS.—For rules made by the Board of Revenue as to the attached estates, *see* the B & O Wards Manual, 1927, pp. 341 to 345.

For instructions by the High Court as to the working of this Regulation, *see* the High Courts Rules, 1922 Civil, Vol. I p. 45.

[2] The words "and City" which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[3] The words "and City," which were repealed by the Repealing Act, 1874 (16 of 1874) are omitted.

[4] The words and figures "prescribed in section 15 of Regulation 4, 1793, viz." which were repealed by the Repealing Act, 1874 (16 of 1874) are omitted.

## (Secs. 2-3.)

Muhammadans, and the Hindu laws with regard to Hindus, be the general rules for the guidance of the Judges, the Vice-President in Council has passed the following Regulation, to be considered in force from the period of its promulgation in the above Provinces, respectively.

Estates of  
Hindus, Mu-  
hammadans  
and others,  
not being  
disqualified  
landholders,  
leaving  
wills.

[<sup>1</sup>]2. In all cases of a Hindu,<sup>[2]</sup> Mussulman or other person<sup>[3]</sup> subject to the jurisdiction of the Zila \* <sup>[3]</sup> Courts, having at his death left a will and appointed an executor or executors to carry the same into effect, and in which the heir to the deceased may not be a disqualified landholder subject to the superintendence of the Court of Wards \* \* \* <sup>[4]</sup> the executors so appointed are to take charge of the estate of the deceased, and proceed in the execution of their trust according to the will of the deceased and the laws and usages of the country, without any application to the Judge of the *Diwani Adalat* or any other officer of Government for his sanction; and the Courts of Justice are prohibited to interfere in such cases, except on a regular complaint against the executors for a breach of trust or otherwise, when they are to take cognizance of such complaint in common with all others of a civil nature \* \* \* <sup>[5]</sup>.

Estates of  
persons  
dying  
intestate.

[<sup>1</sup>]3. In case of a Hindu, Mussulman or other person subject to the jurisdiction of the Zila \* \* \* <sup>[6]</sup> Courts dying intestate, but leaving a son or other heir, who, by the laws of the country, may be entitled to succeed to the whole estate of the deceased, such heir, if of age and competent to take the possession and management of the estate, or, if under age or incompetent and not under the superintendence of the Court of Wards, his guardian or nearest of kin who, by special appointment or by the law and usage of the country, may be authorized to act for him, is not required to apply to the Courts of Justice for permission to take possession of the estate of the deceased as far as the same can be done without violence; and the Courts of Justice are

[<sup>1</sup>] So much of ss. 2 and 3 as restricts the interference of the Civil Courts in cases of inheritance by minors was repealed by Act 40 of 1858 (Minors).

[<sup>2</sup>] Section 2 has been repealed (so far as relates to the executors of persons who are not Muhammadans, but are subject to the jurisdiction of a District Court in Bengal) by the Hindu Wills Act, 1870 (21 of 1870), s. 4, repealed and re-enacted by the Indian Succession Act, 1925 (39 of 1925), printed in General Acts, 1924-27, Ed. 1928, p. 239.

[<sup>3</sup>] The words "and City" which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[<sup>4</sup>] The words and figures "under Regulation 10, 1793, or any other Regulation relative to the jurisdiction of the Court of Wards," which were repealed partly by the Repealing Act, 1874 (16 of 1874), and partly by the Amending Act, 1903 (1 of 1903), are omitted.

[<sup>5</sup>] The rest of s. 2, which was repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

[<sup>6</sup>] The words "or City," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

## (Secs. 4-6.)

restricted from interference in such cases, except a regular complaint be preferred \* \* \* [1].

4. If there be more heirs than one to the estate of a person dying intestate, and they can agree amongst themselves in the appointment of a common manager, they are at liberty to take possession, and the Courts of Justice are restricted from interference, without a regular complaint, as in the case of a single heir; If there be more heirs than one to estate of intestate.

but if the right of succession to the estate be disputed between several claimants, one or more of whom may have taken possession, the Judge, on a regular suit being preferred by the party out of possession, shall take good and sufficient security from the party or parties in possession for his or their compliance with the judgment that may be passed in the suit; or, in default of such security being given within a reasonable period, may give possession, until the suit may be determined, to the other claimant or claimants who may be able to give such security, declaring at the same time that such possession is not in any degree to affect the right of property at issue between the parties, but to be considered merely as an administration to the estate for the benefit of the heirs who may on investigation be found entitled to succeed thereto.

[2]5. In the event of none of the claimants to the estate of a person dying intestate being able to give the security required by the preceding section, and in all cases wherein there may be no person authorized and willing to take charge of the landed estate of a person deceased, the Judge within whose jurisdiction such estate may be situated (or in which the deceased may have resided, or the principal part of the estate may lie, in the event of its being situated within two or more jurisdictions) is authorized to appoint an administrator for the due care and management of such estate, until, in the former case, the suit depending between the several claimants shall have been determined, or in the latter case until the legal heir to the estate, or other person entitled to receive charge thereof as executor, administrator or otherwise, shall attend and claim the same; when, if the Judge be satisfied that the claim is well founded, or if the same be established after any inquiry that may appear necessary, the administrator appointed by the Court shall deliver over the estate to him, with a full and just account of all receipts and disbursements during the period of his administration. In what cases Judge may appoint administrator for care and management of estate of intestate

[2]6. In all instances of an administrator being appointed under this Regulation, he is, previous to entering upon the execution of his office, to give good security for the faithful discharge of his trust in a Security to be taken from, and allowances paid to, administrators.

[1] The words "when they are to proceed thereupon according to the general Regulations," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[2] Ss. 5 and 6 have been modified by the Bengal Attached Estates Management Regulation, 1827 (5 of 1827), *post*, p. 278.

(Secs 7-8)

sum proportionate to the extent thereof and the Judge appointing him is authorized to fix for him (subject to the approbation of the Court of *Sadr Diwan Adalat* to whom a report is to be made in such instance) an adequate personal allowance to be paid out of the proceeds of the estate and to be a percentage thereupon after deducting the charges of management.

Procedure  
in cases of  
persons  
dying  
intestate  
leaving  
personal  
property to  
which there  
is no  
claimant

**7.** The Judges of the Zila \* \* \* [1] Court on receiving information that any person within their respective jurisdiction has died intestate leaving personal property and that there is no claimant to such property are to adopt such measures as may be necessary for the temporary care of the property and to cause an advertisement in the current languages of the country concerning the loss of the deceased or any person entitled to receive charge of his effects to be effected for the purpose.

Such advertisement to be published on the spot where the property was found at the *Diwan Adalat catcherry* of the Zila \* \* \* [1] and if ascertainable at the dwelling-place of the deceased \* \* \* [1] after which should any person attend and satisfy the Judge of his title to the property or to receive charge thereof as executor, administrator or otherwise, the same is to be delivered up to him on repayment of any necessary expense incurred in the care of it.

Should no claim be preferred within the twelve months next ensuing an inventory of the property and report of the circumstances of the case is to be transmitted to the [3] [Board of Revenue or in Accordance to the Local Government for its] orders.

Saving of  
jurisdiction  
of Court of  
Wards

**8.** Nothing in this Regulation is to be understood to limit or alter the jurisdiction of the Court of Wards [1] in the appointment of managers or guardians for \* \* \* [5] disqualified landholder \* \* \* [1] or in any case wherein a special power may be vested in the Court of Wards \* \* \* [5]

[1] The words "or City" which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[2] The words "or if the deceased were in Europe" in the *Calcutta Gazette* which were repealed by the Amending Act, 1903 (1 of 1903) are omitted.

[3] The Decentralization Act, 1914 (4 of 1914) s. 2 Schedule Part III has substituted these words for the words "Local Government for its" which by the Amending Act, 1903 (1 of 1903) Sch. II had been substituted for the words "Governor General in Council for his".

[4] For the present law as to the Court of Wards see the Court of Wards Act, 1879 (Reg. Act 9 of 1879) in Vol. II of this Code.

[5] The word "the," the words and figures "described in Regulation 10, 1793" and the words "by the above or any other Regulation" respectively which were repealed by the Repealing Act, 1874 (16 of 1874) are omitted.

## BENGAL REGULATION 8 OF 1800.

(THE BENGAL REVENUE-FREE LANDS REGULATION 1800.) [1].

(3rd July, 1800.)

**A Regulation for \* \* \* [2] registers of estates paying revenue, and lands held exempt from the payment of revenue.**

**1 to 18.** (*Formation of pargana registers; divisions in same; period for preparing same; forms of register; materials for preparing same; repeal of certain enactments; explanation of the term "estate"; insertion in registers of alterations in annual revenue; copies of registers to be sent to Board of Revenue, new forms of registers; establishment.*)  
Rep. by the Land Registration Act, 1876 (Ben. Act 7 of 1876).

**19.** By section 26, Regulation 19, 1793, [3] section 21, Regulation 37, 1793, [4] [*and the corresponding sections in Regulations 41* [5] *and 42* [6] 1795,] all lands held exempt from the payment of revenue, which the holders may have omitted to register by the time prescribed in the publication therein referred to, are become subject to the payment of revenue, unless sufficient cause be shown, to the satisfaction of the Governor General in Council, for their not having been registered within the limited period.

Extension of period for registration of revenue-free grants, and assessment thereafter of all unregistered lands.

It appearing, however, that the publications directed in section 25, Regulation 19, 1793, [3] section 20, Regulation 37, 1793, [4] [*and the corresponding sections in Regulations 11* [5] *and 42* [6] 1795,] have not

[1] **SHORT TITLE** - This short title was given by the Amending Act, 1903 (1 of 1903), Sec. I *see post*, p. 618.

**LOCAL EXTENT** - This Regulation has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1873-86, Ed. 1928, p. 48), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the districts of Hazaribagh, Ranchi, Palamanu and Manbhum, and Pargana Dhalbhum, in the district of Singhbhum, in the Chota Nagpur Division, *see* Vol. IV, Part III.

S. 19 of the Regulation is in force in the Sonthal Parganas, *see* Vol. IV, Part IV; but its application is barred in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 768.

[2] The words "preparing a general pargana register of lands, and for certain alterations in the prescribed," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891) are omitted.

[3] The Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 43.

[4] The Bengal Revenue-free Lands (Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 60.

[5 and 6] Bengal Regulations 41 and 42 of 1795 were repealed by the North-Western Provinces Land-revenue Act, 1873 (19 of 1873).

(Secs. 20-22.)

in every instance been made as therein directed (namely, the publication respecting lands held under *badshahi* grants in the principal *cutcherry* of the holders of such grants: and respecting other exempted lands in the principal *cutcherry* of every proprietor and farmer of land paying revenue to Government and of every Native Collector in lands held *khas* by Government; or when the estate, farm or *khas* land may consist of two or more whole *parganas*, or portions of *parganas*, in the principal *cutcherry* of each *pargana* or portion of a *pargana* comprised in such estate, farm or *khas* land), the Collectors are hereby further directed immediately on the receipt of this Regulation, to ascertain whether the publications above specified have been duly made as prescribed throughout their respective Collectorships; and, if not, they are to cause the same to be made without delay, in the manner prescribed, as well as in their own *cutcheries*, and in the *cutcheries* of the *Diwani* Courts situated within their respective *zilas*; allowing the further period of one year from the date of such publications for the registry of the lands therein specified.

After the expiration of such period any unregistered land found to be held exempt from the payment of revenue is to be assessed, under the provisions contained in the above Regulations, whenever the same may be discovered;

and the Collectors are to enter lands so assessed (together with all other *lakhiraj* lands which may be brought upon the public assessment) in their succeeding \* \* [1] register of estates paying revenue, as well as in their register of intermediate mutations.

**20 to 22.** (*Notice of establishment of new villages and by persons succeeding to landed property; Kanungos' records to be delivered to Collector.*) Rep. by the Land Registration Act, 1876 (Ben. Act 7 of 1876).

[1] The word "quinquennial," which was repealed by the Repealing Act, 1874 (16 of 1874), is omitted

## BENGAL REGULATION 10 OF 1800.

(THE BENGAL INHERITANCE REGULATION, 1800.) [1]

(11th December, 1800.)

### A Regulation for preventing the division of landed estates in the *Jungle Mahals* of the *Zila* of Midnapore and other Districts.

1. By Regulation 11, 1793,[2] the estates of proprietors of land dying intestate are declared liable to be divided among the heirs of the deceased agreeably to the Hindu or Muhammadan laws. Preamble

A custom, however, having been found to prevail in the *jungle mahals* of Midnapore and other districts, by which the succession to landed estates invariably devolves to a single heir without the division of the property, and this custom having been long established, and being founded in certain circumstances of local convenience which still exist, the Governor General in Council has enacted the following rules to be in force in the Provinces of [*Bengal*,] Bihar and Orissa from the date of its promulgation.

2. Regulation 11, 1793[2] shall not be considered to supersede or affect any established usage which may have obtained in the *jungle mahals* of Midnapore and other districts, by which the succession to landed estates, the proprietor of which may die intestate, has hitherto been considered to devolve to a single heir, to the exclusion of the other heirs of the deceased. Regulation 11, 1793, not to operate in *jungle mahals* of Midnapore and other districts.

In the *mahals* in question the local custom of the country shall be continued in full force as heretofore, and the Courts of Justice be guided by it in the decision of all claims which may come before them to the inheritance of landed property situated in those *mahals*.

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[1] SHORT TITLE.—This short title was given by the Amending Act, 1897 (5 of 1897), Sch. III—see *post*, p. 544.

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal (see s. 1), and was extended to the District of Cuttack by the Cuttack Land-revenue Regulation, 1805 (12 of 1805), s. 36, *post*, p. 97.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the districts of Hazaribagh, Ranchi, Palamau and Manbhum, and Pargana Dhalbhum and the Kolhan, in the district of Singhbhum, in the Chota Nagpur Division, see Vol. IV, Part III.

The application of the Regulation, in the de-regulationised tracts in Bihar and Orissa is barred as follows, namely:—

in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 768;

in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, *post*, p. 700.

[2] The Bengal Inheritance Regulation, 1793. It is printed *ante* p. 39.



## BENGAL REGULATION I OF 1801.

(THE BENGAL LAND-REVENUE ASSESSMENT REGULATION, 1801.) [1]

(15th January, 1801.)

**A Regulation \* \* \* [2] to explain and amend the rules \* \* \* [2]  
for the division of joint estates and allotment of the fixed assessment  
thereupon \* \* \* .\***[2]

**1, 2.** (*Local extent; attachment of estate or farm for arrears of revenue.*) Rep. by the Repealing Act, 1874 (16 of 1874).

**3.** (*Immediate sale of attached estates, on proprietors refusing to furnish accounts.*) Rep. by the Bengal Government Indemnity Regulation, 1822 (11 of 1822).

**4.** (*Distress and sale of personal property in certain cases.*) Rep. by the Repealing Act, 1874 (16 of 1874).

**5 to 7.** (*Sale of estates in one or more lots.*) Rep. by the Bengal Government Indemnity Regulation, 1822 (11 of 1822).

Section 10,  
Regulation  
1, 1793,  
to be  
observed in  
all cases of  
public sale  
and private  
transfer or  
division.

**8.** Section 10, Regulation 1, 1793,[2] prescribes the general rule and principle for the allotment of the fixed assessment upon all divisions of estates, whether publicly sold or transferred by the private act of the proprietors, namely, that the assessment upon the portion of the estate to be separated shall bear the same proportion to its actual produce as the fixed assessment upon the whole estate may bear to its actual produce.

This rule is to be strictly observed in all cases, whether of public sale or private transfer, or of division between sharers, heirs or joint proprietors of whatever description;

“Actual  
produce”  
defined.

and it is hereby explained that by the term “actual produce” is to be understood the neat annual rent, or other neat produce receivable by the proprietor, after deducting from the gross rent, or other gross produce, the actual expense of collection and other usual charge of management, inclusive of *pulbandi* or the expense of embankment, and

[1] **SHORT TITLE.**—This short title was given by the Amending Act, 1903 (1 of 1903), Sch. I—see *post*, p. 618.

**LOCAL EXTENT.**—This Regulation has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1873-86, Ed. 1923, p. 48), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

The Regulation has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the Sonthal Parganas, *see* Vol. IV, Part III.

The application of the Regulation is barred in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 768.

[2] Words and figures in the title, which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[3] The Bengal Permanent Settlement Regulation, 1793. S. 10 is printed *ante*, p. 8.

(Sec. 8)

similar incidental expenses, where such may be paid by the proprietor from his gross receipts; but exclusive of his *malikana* or proprietary income, and all other personal appropriations of the gross produce of his estate, as such can have no claim to consideration in determining the neat produce for an equal division of landed property, or for the allotment of the public assessment thereto in conformity to the prescribed rule.

But the above Regulation further provides that the produce to which the general rule of proportion is to be applied shall be ascertained in the mode that is or may be prescribed by the Governor General in Council \* \* \* [1].

It is hereby enacted that whenever the Collector [2] or other public officer, to whom the allotment of the assessment upon the portion of an estate may be committed, shall have reason to suspect the accuracy of the village-accounts produced by a *patwari*, ' ' \* [3];

Procedure of officer charged with allotment of portions of estate, should he doubt accuracy of *patwari* accounts, or they be not forthcoming.

or if such accounts shall be found to have been fabricated or altered, or not to be the true accounts, \* \* \* [4];

or if in any case the true village-accounts of the lands, rents, receipts and disbursements may not be forthcoming, but the Collector or other officer, under the powers vested in him \* \* \* [5], shall have obtained satisfactory accounts for the three past years of the lands and rents of the entire *zamindari*, *taluk* or other estate, with a specification of the *mahal* or *mahals* proposed to be separately assessed,

he shall adjust the assessment upon such *mahal* or *mahals*, under the general rule of proportion, according to the average neat produce (as above explained) ascertainable from the general accounts of the estate so obtained, without further regard to the village-accounts than may appear to him proper, with a view to compare and check the other accounts :

Provided, however, that in all cases the Collector or other officer shall adopt every authorized measure to obtain the most accurate

[1] The words and figures " and the *patwari* accounts furnished in pursuance of clause *Fourth* of s. 62, Regulation 8, 1793, for the allotment of the public revenue agreeably to the principles laid down in Regulation 1, 1793, having in many instances proved fallacious or unsatisfactory, and in some instances not being procurable by the officers of Government," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted

[2] As to the exercise of functions of Collectors by other officers, see the Bengal Land Revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

[3] The words and figures "in pursuance of clause *Fourth* of s. 62, Regulation 8, 1793, or of any other Regulation," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[4] The words "under the process prescribed in clause *Eighth* of the above section and Regulation," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[5] The words and figures "by clause *First* of s. 29, Regulation 7, 1799, or any other Regulation," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

(Secs. 9-10.)

accounts procurable, and shall fully satisfy himself that the account from which he may compute the neat produce of an estate to be divided and distinctly assessed are sufficiently accurate to prevent any risk of loss to Government from the proposed allotment of the assessment without evidence of which no distinct assessment is to be proposed by any Collector<sup>[1]</sup> or approved by the Board of Revenue<sup>[2]</sup> ]

Collectors not to fix assessment on portion of estate, without Board's sanction.

Provided further that nothing in this Regulation shall be understood to authorize the Collectors<sup>[1]</sup> to fix the amount of the assessment to be allotted upon the portion of an estate, whether publicly or privately disposed of, without the sanction of the Board of Revenue<sup>[2]</sup> ] \*  
\*<sup>[3]</sup>.

\* \* \* \* \*

**9.** (Statement of land for sale to be submitted without delay.)  
Rep. by the Repealing Act, 1874 (16 of 1874).

Collectors authorized to cause attendance of landholder or other Native.

**10.** All purchasers of lands at the public sales are required to attend the Collector<sup>[1]</sup> of the district wherein the lands may be situated, either in person or by their representatives duly authorized, and to execute the usual *kabuliyat* and *kistbandi* for the public revenue assessed upon the lands purchased by them.

In cases of doubt as to the real purchaser \* \* \* [5] the Collector<sup>[1]</sup> [6], is authorized to cause the personal attendance of the alleged purchaser at his *cutcherry* if resident within his jurisdiction; or, if the purchaser be resident in any other *zila*, the Collector<sup>[1]</sup> of such *zila* is authorized and required to cause the attendance of the purchaser at his *cutcherry* on the application of the Collector<sup>[1]</sup> in whose district the lands may lie, and to make any examination or inquiry

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, post, p. 236.

[2] As to the present constitution and powers of the Board of Revenue see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[3] The words and figures "or to alter the provisions made for the correction of error or collusion in such allotments, by s. 25, Regulation 25, 1793, in cases of private divisions of estates, and by clause *Second* of s. 29, Regulation 7, 1799, in cases of public sales," in s. 8, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[4] The rest of s. 8, which was repealed by the Amending Act, 1903 (1 of 1903), is omitted.

[5] The words and figures "or of suspicion that the purchase has been made in opposition to the rules contained in clauses *Third* and *Fourth* of s. 29, Regulation 7, 1799," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[6] For power of Board of Revenue to require the attendance of landholders, and to fine persons neglecting to attend, see the Bengal Land-revenue Regulation, 1793 (2 of 1793), s. 33, ante, p. 24.

For power to fine proprietors and farmers of land for not attending before the Collector, see the Bengal Landholders' Attendance Act, 1848 (20 of 1848), post, p. 309.

## (Secs. 11-14.)

that may be desired by the latter Collector<sup>[1]</sup> or by the Board of Revenue,<sup>[2]</sup> to whom a full report is to be made in such cases \* \* <sup>[3]</sup>.

It is further hereby declared that the Collectors<sup>[1]</sup> are generally empowered to cause the personal attendance of any landholder or other Native inhabitant within their respective jurisdictions, when the attendance of such person may be indispensably necessary for the purpose of any authorized public inquiry, or to enable them to perform any part of their public duty, under the Regulations or instructions of the \* \* <sup>[4]</sup> Board of Revenue<sup>[2]</sup>.

But no Collector<sup>[1]</sup> shall cause the personal attendance of any landholder or other person who may appoint an agent duly authorized to attend for him if the attendance of the agent so appointed shall be sufficient for the purpose required.

Any infringement of this rule will subject the Collectors to a prosecution for damages in the Civil Courts;

and, whenever they may have occasion to exercise the power now declared to be vested in them, they are to issue regular summonses, under their official seals and signatures, specifying the name, designation and residence of the party summoned, and the purpose or purposes for which his attendance is required.

**11.** (*Sale of shares in an undivided estate.*) *Rep. by the Bengal Government Indemnity Regulation, 1822 (11 of 1822).*

**12, 13.** (*Division of joint estates, and allotment of the assessment.*) *Rep. by Ben. Reg. 19 of 1814.*

**14.** \* \* \* \* \* <sup>[5]</sup>.

The rules regarding separable *taluks* contained in Regulation 8, 1793,<sup>[6]</sup> were never meant to be applied to any new *taluks* constituted since the period of the decennial settlement.

By section 9, Regulation 1, 1793<sup>[7]</sup> the *zamindars* and all other proprietors of land have been declared at liberty to transfer by sale, gift or otherwise their proprietary rights in the whole or any portion of their

Not to enforce personal attendance of principal if that of agent will suffice. Effect of infringement of rule. Summonses to persons whose attendance is required.

Rules regarding separable *taluks* not applicable to *taluk* constituted since decennial settlement.

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

[2] As to the present constitution and powers of the Board of Revenue see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[3] The words and figures "for the orders of the Governor General in Council, as directed in clause *Fourth* of s. 29, Regulation 7, 1799," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[4] The words "Governor General in Council or," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[5] Portion of s. 14 which was repealed by the Repealing and Amending Act, 1891 (12 of 1891), is omitted.

[6] The Bengal Decennial Settlement Regulation, 1793. It is printed, *ante*, p. 28.

[7] The Bengal Permanent Settlement Regulation, 1793. Section 9 is printed, *ante*, p. 8.

(Sec. 15.)

respective estates; but by section 10 of the same Regulation it is required that all such transfers be notified to the Collector of the *ilaa*; that the fixed *jama* assessed upon the whole estate may be apportioned on the several shares in the manner therein prescribed; that the name of the proprietors of each share and the *jama* assessed thereon may be entered upon the public registers, and that separate engagements for the payment of the *jama* assessed upon each share may be executed by the proprietors, who are thenceforward to be considered separate proprietors of distinct estates; but until such notification and separation shall have been made the whole of the estate is declared responsible to Government for the discharge of the fixed *jama* assessed upon it, in the same manner as if no transfer had taken place.

\* \* \* \* \*

Transfer of  
proprietary  
right in  
portions of  
estates in  
certain cases  
declared  
invalid as  
far as  
respects  
rights of  
Government.

If, therefore, any *zamindar* shall have disposed of his proprietary rights in any portion of his *zamindari* subsequently to the promulgation of the Regulation above-mentioned, whether under the denomination of an independent *taluk* or otherwise, and the *talukdar* or other person to whom the portion of an estate may have been so transferred shall have omitted to obtain a separate allotment of the public assessment thereon, in the mode prescribed by the regulations, such transfer, as far as respects the rights of Government, must be considered altogether invalid;

and if the land so privately transferred, but not separately assessed, should have been since, or shall be hereafter, included in any public sale for arrears of revenue, the illicit and imperfect private transfer must be deemed to have been altogether done away.

In such cases the lands transferred, until publicly registered and separately assessed, form part of an undivided estate; and as such are liable to be sold for any arrear of revenue which may be due from any part of the estate:

Section  
not to  
apply to  
dependent  
tenures.

Provided, however, that nothing in this section be considered applicable to dependent *taluks*, or other tenures dependent on the estate to which they are attached, and from which, by their title-deeds or otherwise, they are not entitled to be separated as a distinct estate \* \* \* [2].

**15.** (*Applicability of certain rules to Benares.*) Rep. by the Repealing Act, 1874 (16 of 1874).

[1] The words and figures "This declaration is also repeated in s. 28, Regulation 25, 1793, which contains the specific rules established by Government for the division of estates paying revenue, and the allotment of *jama* upon the several portions thereof," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[2] The words and figures "Section 6, Regulation 44, 1793, authorizes and confirms such tenures, subject to the restrictions contained in sections 2 and 5 of that Regulation; with the explanation of the latter in section 7, Regulation 4, 1794, and clause Fifth of section 20, Regulation 7, 1799," which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

# BENGAL REGULATION 12 OF 1805

(THE CUTTACK LAND REVENUE REGULATION, 1805)

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## BENGAL REGULATION 12 OF 1805.

(THE CUTTACK LAND-REVENUE REGULATION, 1805.)<sup>[1]</sup>

(5th September, 1805.)

**A Regulation for the settlement and collection of the public revenue in the Zila of Cuttack, ['] including the pargana[s] of [Pataspur,] Kamardachor [and Bhogra], at present included in the Zila of Midnapore.**

### Preamble.

**1.** Whereas it is necessary that fixed rules should be established for the settlement and collection of the public revenue in the Zila of Cuttack :<sup>[2]</sup>

And whereas it has been judged to be advisable to extend the Regulations in force for the settlement and collections of the public revenue in the Province of Bengal, with certain modifications and exceptions, to the Zila of Cuttack :<sup>[2]</sup>

The following rules have been enacted, and are to be in force from the period of the promulgation of this Regulation.

**2 to 11.** (*Confirmation, with modifications, of Proclamation as to settlement of land-revenue in the Moghalbandi territory of the Zila of Cuttack; registration of landed property.*) Rep. by the Amending Act, 1903 (1 of 1903).

**12 to 16.** (*Extension of the Stamp Regulations to Cuttack; coinage in which settlement is to be made and revenue paid; bonds dischargeable in sicca rupees; engagements for coins other than siccas or gold mohurs not to be enforced.*) Rep. by the Repealing Act, 1874 (16 of 1874).

[1] **SHORT TITLE.**—This short title was given by the Amending Act, 1903 (1 of 1903), Sch. I.—see *post*, p. 618.

**LOCAL EXTENT.**—This Regulation was passed for the District of Cuttack, see the title and s. 1.

**EXTENSION OF APPLICATION.**—The rules prescribed in Ben. Reg. 12 of 1805 for determining the validity of grants for holding lands exempt from the payment of the public revenue have been declared applicable to grants for holding lands under *mukurani* or other tenures limiting the demand of Government see the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819 (2 of 1819), s. 4, *post*, p. 163.

Such parts of Ben. Reg. 12 of 1805 as relate to *tahsili* lands, have been modified by the Bengal Revenue-free Lands Regulation, 1825 (Ben. Reg. 14 of 1825), *post*, p. 271.

[2] This included all the three districts of Cuttack, Balasore and Puri which were split up in the three regulation Districts in 1829, see the Bengal District Gazetteer, Cuttack, p. 173.

[3] Portion of section 1 which was repealed by the Amending Act, 1903 (1 of 1903), is omitted.

(Secs. 17-18.)

**17.** The following rule, containing modifications of the provisions contained in Regulation 19, 1793 [1] respecting lands exempt from the payment of revenue under grants not being *badshahi* or royal, shall be in force in the *zila* of Cuttack

Modifica-  
tions of  
Regulation  
19, 1793

**18. First.**—All grants for holding land exempt from the payment of revenue made previously to the 14th day of October, 1791, corresponding with [the 30th *Assin*, 1198, *Bengal era*]; the 3rd *Kartik*, 1199, *Fash*; [the 30th *Assin*, 1199, *Wdayati*]; the 3rd *Kartik*, 1818, *Sambat*; and the 15th *Safi*, 1207, *Hum*, by whatever authority, and whether by a writing, or without a writing, shall be deemed valid, provided that the grantee actually and *bonâ fide* obtained possession of the land so granted, and held it exempt from the payment of revenue, previously to the date above-mentioned, and that the land shall not have been subsequently rendered subject to the payment of revenue by the officers or the orders of the Government.

Validity of  
grant of  
alienated  
lands made  
before 14th  
October,  
1791

If it shall be proved to the satisfaction of the Court that the grantee did not obtain possession of the land so granted, or did not hold it exempt from the payment of revenue previously to the date above specified, or that he did obtain possession of it prior to that date but that it has been since subjected to the payment of revenue by the officers or the orders of Government, the grant shall not be deemed valid.

**Second.** All grants for holding land exempt from the payment of revenue, which may have been made subsequently to the 14th day of October, 1791, and prior to the 14th day of October, 1803, by whatever authority, and which may have been confirmed or expressly admitted antecedently to the 14th day of October, 1803, by the authority of the existing Government, shall be deemed valid, provided the grantee actually and *bonâ fide* obtained possession of the land so granted, and held the same exempt from the payment of revenue, previously to the 14th day of October, 1803, and the land shall not have been afterwards rendered subject to the payment of revenue by the officers or the orders of the late Government.

Validity of  
grants made  
after 14th  
October,  
1791, and  
confirmed  
or admitted  
before 14th  
October,  
1803

If it shall be proved, to the satisfaction of the Court, that the grantee did not obtain possession of the land so granted, or did not hold it exempt from the payment of revenue, previously to the 14th day of October, 1803, or that he did obtain possession of it prior to that date, but that it has been since subjected to the payment of revenue by the officers or the orders of the late Government, the grant shall not be deemed valid.

**Third.**—In the event of a claim being preferred by any person to hold land exempt from the payment of revenue, under a grant made

Reference of  
abolished.  
claims to  
Governor  
General.

[1] The Bengal Revenue-free Lands (Non-*Badshahi* Grants) Regulation, 1793. It is printed *ante*, p. CA.



## (Sec. 18.)

previously to the 14th day of October, 1791, or under a grant made subsequent to that date, but prior to the 14th day of October, 1803, and confirm, or admitted by the authority of the existing Government, and of its being proved to the satisfaction of the Court in which the suit may be instituted in the first instance, or to which it may be appealed, that the grantee held the land exempt from the payment of revenue previously to the date specified, but that it was afterwards subjected to the payment of revenue by an officer of Government and the Court shall entertain doubts as to the competency of such officer, under the powers vested in him, to subject the land to the payment of revenue, the Court shall suspend its judgment, and report the circumstances to the [1] [Local Government,] to whom a power is reserved of determining whether such officer was or was not competent to subject the land to the payment of revenue; and, upon receiving the determination of the [1] [Local Government,] the Court is to decide accordingly.

In like manner the [1] [Local Government] reserves to [2] [itself] the power of determining, in cases of doubt, whether any officer of the *Raja* of Birar who may have made, confirmed or admitted grants of land exempt from the payment of revenue in the name or on the part of the *Raja* was competent to exercise such authority.

The Courts of Judicature shall accordingly suspend their judgment in cases of the above nature, and report the circumstances for the decision of the [1] [Local Government].

Rules  
respecting  
grants for  
life only.

*Fourth.* -But no part of the three preceding clauses shall be construed to empower the Courts to adjudge any person, not being the original grantee, entitled to hold land now paying revenue to Government, exempt from the payment of revenue, under any grant made previously to the 14th day of October, 1803, the writing for which may expressly specify it to have been given for the life of the grantee only;

or supposing no such specification to have been made in writing or the writing not to be forthcoming, or no writing to have been executed, where the grant, from the nature and denomination of it, shall be proved to be a life-tenure only, according to the ancient usage of the country.

Heirs of  
present  
possessors.

*Fifth.*—Nor to entitle the heirs of any person now holding land exempt from the payment of public revenue, under whatever grant, to succeed to and hold such land exempt from the payment of revenue upon

[1] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. 11, *post*, p. 631.

[2] The word "himself," in the original text, is to be read as if the word "itself" were substituted therefor—see *ibid*.

## (Sec. 18.)

the demise of the present possessor, where the writing for such grant may expressly specify it to have been given for the life of the grantee only; or supposing no such specification to have been made in the writing, or the writing not to be forthcoming, or no writing to have been executed, where, from the nature and denomination of the grant, it shall be proved to be a life-tenure only, according to the ancient usages of the country.

Nor to entitle the heirs to any such person to hold the lands exempt from the payment of revenue after his demise, supposing the writing for the grant not to specify whether it was to be considered hereditary or otherwise, unless it shall be proved, to the satisfaction of the Court, that the grant, from the nature and denomination of it, is hereditary, according to the ancient usages of the country.

But upon the demise of the present possessor of any such grant which may be adjudged not hereditary under this clause, if it shall appear that one or more successions, in virtue of whatever right, shall have taken place before the 14th day of October, 1803, the lands shall not be subjected to the payment of revenue under the decree without the sanction of the [1][Local Government] to whom a copy of the proceedings and decree of the Court is to be transmitted, and to whom is reserved a power of declaring the lands subject to the payment of revenue, or not, as may appear to [2][it] proper.

*Sixth.*—The present possessors of lands held exempt from the payment of revenue, under all life-grants declared by the preceding clause not to be hereditary, are prohibited from selling or otherwise transferring them, or mortgaging the revenue of them for a longer period than their own lives; and all such transfers and mortgages are declared illegal and void :

Present possessors not to transfer or mortgage grants.

*Seventh.*—Provided, however, that nothing herein contained shall authorize the subjecting to the payment of revenue any quantity of land, not exceeding ten *bighas*, held exempt from the payment of revenue under a grant made prior to the 14th day of October, 1803, and *bona fide* appropriated as an endowment for temples or for other religious or charitable purposes.

Exemption of certain grants for religious or charitable purposes.

Moreover, if any land so held and appropriated, exceeding ten *bighas*, shall become liable to assessment under the rules contained in this Regulation, and the Judge of the Court before which the suit for the assessment of such land may be depending, or the Collector[3] of the district, if no

[1] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 631.

[2] The word "him," in the original text, is to be read as if the word "it" were substituted therefor—see *ibid*.

[3] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 36, *post*, p. 236.

(Secs. 19-22.)

judicial suit respecting it be depending, shall be of opinion that immediate assessment of such land would be productive of benefit, he will report the same, with the circumstances of the case, for the consideration of the [1][Local Government].

Courts not to take cognizance of certain claims to hold exempted lands

**Eighth.**—The Courts of Justice shall not take cognizance of any claim to hold exempt from the payment of revenue, under the present Regulation, land which may have been subjected to the payment of revenue for the period of twelve years prior to the 14th day of October, 1803; nor of any claim to hold land exempt from the payment of revenue, which may have been subjected to the payment of revenue for the twelve years preceding the date on which the claim may be instituted, unless the claimant can show good and sufficient cause for not having preferred his claim to a competent jurisdiction within that period.

Grants of land exempt from revenue, made since 14th October, 1803, and not confirmed, declared invalid.

**19.** All grants for holding land exempt from the payment of revenue, which may have been made since the 14th day of October, 1803, corresponding with [the 29th Assin, 1210, Bengal era;] the 11th Kartick, 1211, Fasli; [the 29th Assin, 1211, Wilayati;] the 11th Kartik, 1860, Sambat; and the 27th Jamadi-us-Sani 1218, Hijri, by any other authority than that of the British Government, and which may not have been confirmed by the Governor General in Council or by an officer empowered to confirm them are declared invalid.

Procedure in case of doubt of authority of officer confirming grant.

**20.** If doubts shall be entertained by any Court as to the competency of the authority of any officer to confirm any such grant, the Court is to suspend its judgment, and report the circumstances of the case to the [1][Local Government], to whom a power is reserved of determining finally whether the officer possessed competent authority to confirm the grant, or otherwise; and the Court, upon receiving the determination of the [1][Local Government,] shall decide accordingly.

Assessing lands resumed under sections 18 to 20.

**21.** The following rule shall be in force in the Province of Cuttack for assessing land declared subject to the payment of revenue to Government under the three foregoing sections of this Regulation :—

Revenue to belong to Government.

**22. First.**—The revenue assessable on all lands which shall be adjudged or become liable to the payment of revenue, under sections 18, 19 and 20 of the present Regulation, is declared to belong to Government.

Assessment regulated by rules for settlement of revenue-paying lands.

**Second.**—The revenue, payable to Government, shall be regulated by the rules prescribed by this Regulation for concluding the settlement of lands paying revenue to Government, and by any subsequent rules

[1] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 631.

(Secs. 23-26.)

which may be prescribed relative to the assessment of lands subject to the payment of revenue to Government.

If the proprietor shall not agree to the assessment so fixed, a report of his objections, and of the circumstances of the case, shall be made by the Collector [1] of the district [2] [to the Board of Revenue,] who will determine on the amount of the assessment; and, if the proprietor shall refuse to engage for the same, the lands shall be let in farm or held *khas*, under the rules contained in the existing Regulations.

Procedure in case proprietor refuses to agree to assessment.

23. The period of one year, reckoning from the expiration of the current *Hidayat* year 1212, [3] shall be allowed to the proprietors to register their grants.

Periods fixed for registering grants and preparing periodical registers.

On the expiration of that period of time the Collectors [1] shall prepare the first periodical register of lands held exempt from the payment of revenue; and the second, third and each successive register at the expiration of every five years.

[1] 24. All the provisions contained in Regulation 19, 1793, [3] regarding lands exempt from the payment of revenue to Government under grants not being *badshahi* or royal, which are not superseded by the foregoing rules, are hereby declared to be in force in the *zila* of Cuttack.

Regulation 19, 1793, in force in Cuttack

25. The following rules containing modifications of the provisions contained in Regulation 37, 1793, [6] respecting lands held exempt from the payment of revenue under *badshahi* or royal grants, shall be in force in the *zila* of Cuttack; and all the provisions of that Regulation which are not superseded and rendered of no effect by the following rules shall be considered to be in force in the said *zila*.

Also Regulation 37, 1793.

26. *First*.—The term “*badshahi grant*” shall be construed to extend to all grants made by the supreme power for the time being, and conse-

“*Badshahi grant*” defined.

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land Revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

[2] These words in square brackets in s. 22 were substituted for the words “through the Board of Revenue, for the information of the Governor General in Council” by the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 631.

[3] i.e., the 13th September, 1805.

[4] So much of s. 24 as authorizes and requires proprietors and farmers of estates and dependent *taluks* (in cases in which grants for holding land exempt from the payment of revenue have been made subsequent to the 1st December, 1790,) “of their own authority to collect the rents of such land and to dispossess the grantees of the proprietary right in the land and to re-annex it to the estate or *taluk* in which it may be situate” has been repealed by the Bengal Rent Act, 1859 (10 of 1859), s. 28, printed in the Bengal Code, 1913-15, Vol. I, p. 393.

[5] The Bengal Revenue-free Lands (Non-*Badshahi* Grants) Regulation, 1793. It is printed *ante*, p. 43.

[6] The Bengal Revenue-free Lands (*Badshahi* Grants) Regulation, 1793. It is printed *ante*, p. 60.

(Sec. 26.)

quently to include grants of the following descriptions : --

*First*, royal grants properly so called ; secondly, grants made by the *Suba* of Orissa ; and thirdly, grants made by the *Rajus* of Birar.

*Badshahi*  
grants made  
before 14th  
October,  
1803,  
declared  
valid

*Second.*—*Altamgha*, *jaḡir*, *aima*, *madadmash* or other *badshahi* grants for holding land exempt from the payment of revenue, made previous to the 14th October, 1803, shall be deemed valid provided the grantee actually and *bonâ fide* obtained possession of the land so granted previous to that date and the grant shall not have been subsequently resumed by the officers or the orders of Government.

If it shall be proved to the satisfaction of the Court that the grantee did not obtain possession of the land so granted previous to the 14th October, 1803, or that he did obtain possession of it prior to that date, but that it has been since resumed by the officers or the orders of Government, the grant shall not be deemed valid.

Procedure  
in case of  
doubt as to  
authority of  
officers  
resuming  
grants

*Third.* In the event, however, of a claim being preferred by any person to hold land exempt from the payment of revenue under a *badshahi* grant made previous to the 14th October, 1803, and on its being proved to the satisfaction of the Court in which the suit may be instituted in the first instance, or to which it may be appealed, that the grantee held the land exempt from the payment of revenue previous to that date, but that it was subjected to the payment of revenue posterior thereto by an officer of Government, and the Court shall entertain doubts as to the competency of such officer under the powers vested in him to resume the grant and subject the lands to the payment of revenue, the Court shall suspend its judgment, and report the circumstances to the [1] [Local Government], to whom a power is reserved of determining whether such officer was or was not competent to resume the grant ; and, upon receiving the determination of the [1] [Local Government] the Court is to act accordingly.

Rules  
respecting  
grants for  
life only.

*Fourth.*—But no part of the preceding clauses shall be construed to empower the Courts to adjudge any person, not being the original grantee, entitled to hold land paying revenue to Government exempt from the payment of revenue under a *jaḡir* or other grant made previous to the 14th October, 1803, where the grant may expressly specify it to have been given for the life of the grantee only ; or supposing no such specification to have been made in the grant, or the grant not to be forth-

[1] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 631.

(Secs. 27-29.)

coming, where the grant, from the nature and denomination of it, shall be proved to be a life-tenure only, according to the ancient usages of the country.

*Fifth.*—Nor to entitle the heirs of any person now holding lands exempt from the payment of public revenue, under a *jagir* or other *badshahi* life-grant made previous to the 14th October, 1803, to succeed to and hold such land, exempt from the payment of revenue upon the demise of the present possessor, where the grant may expressly specify it to have been given for the life of the grantee only : or supposing no such specification to have been made in the grant, or the grant not to be forthcoming, where, from the nature and denomination of the grant, it shall be proved to be a life-tenure only, according to the ancient usages of the country.

*Sixth.*—The present po-ssessors of lands now exempt from the payment of revenue, under such *jagir* or other life-grants made previous to the 14th October, 1803, and declared by the preceding clause not to be hereditary, are prohibited from selling or otherwise transferring them, or mortgaging the revenue of the lands for a longer period than their own lives ; and all such transfers and mortgages which have been or may be made are declared illegal and void.

Present  
possessors  
not to  
transfer or  
mortgage  
grants.

**27.** All *badshahi* grants for holding land exempt from the payment of revenue, which may have been made since the 14th October, 1803, by any other authority than that of the British Government, and which may not have been confirmed by Government, or by an officer empowered to confirm them, are declared invalid.

Grants made  
since 14th  
October,  
1803, and  
not con-  
firmed,  
declared  
invalid.

**28.** If doubts shall be entertained by any Court as to the competency of the authority of any officer to confirm any such grant, the Court is to suspend its judgment, and report the circumstances of the case to the [1] [Local Government,] to whom a power is reserved of determining finally whether the officer possessed competent authority to confirm the grant or otherwise ; and the Court, upon receiving the determination of the [1] [Local Government,] shall decide accordingly.

Procedure  
in case of  
doubt of  
authority  
of officer  
confirming  
grant.

**29.** The period of one year, reckoning from the expiration of the *Wilayati* year 1212,[2] shall be allowed to the proprietors to register their grants. On the expiration of that period of time the Collectors[3] shall

Periods  
fixed for  
registering  
grants and  
preparing  
periodical  
registers.

[1] The words " Governor General in Council," in the original text, are to be read as if the words " Local Government " were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 631.

[2] i.e., the 13th September, 1805.

[3] As to the exercise of functions of Collectors by other officers, see the Land-Revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

(Secs. 30-33)

prepare the first periodical register of land held exempt from the payment of revenue under *bidh* *hu* *venues*, and the second third and each successive register at the expiration of every five years.

**Pensions****30.**

[1]

In cases in which persons may have obtained pension [1] from the Government of Bihar under any mode provision to the 10th day of October, 1803, such pensions shall be continued to the present incumbents, and will either descend to their heirs and successors, or will revert to Government on the decease of the present incumbent, if shall appear to the [2] [Local Government] on a consideration of the tenor of the grant and all the circumstances of the case, to be proper [3];

Provided [4] that in cases in which persons shall have been in the actual receipt of pensions during a period of three or more years antecedent to the 14th day of October, 1803, under whatever authority, such pensions shall be continued to the present incumbents during their respective lives, but shall revert to Government on the decease of the present incumbents, unless any particular reasons shall appear to the [5] [Local Government] to exist for continuing the said pensions to their heirs and successors.

Provided also that nothing herein contained shall be construed to authorize the resumption of the established donation for the support of the temple of *Jagannath*, the charitable donation to the officers of certain Hindu temple, called *Anuchahn*, and the allowance granted for the support of the Hindu temple at Cuttack, called *Sitarani Thakur Bari*.

**Collection of  
am, etc.  
abolished**

**31.** The settlement of the land revenue of the *zila* of Cuttack having been ordered to be made with the exclusion of all *sau* *duties*, all duties of that description are hereby abolished in the said *zila*, with the exception of the tax on the sale and consumption of spirituous liquors, and intoxicating drugs [6].

**32.** (*Extension of Reg. 36 of 1793 to Cuttack.*) Rep. by Act 16 of 1861.

[1] Portion of S. 30 which was repealed by the Repealing and Amending Act, 1891 (12 of 1891), is omitted.

[2] As to pensions, see now the Pensions Act, 1871 (23 of 1871), in General Acts, 1834-72, Ed. 1928, p. 347.

[3] The words "Governor General in Council," in the original text, are to be read as if the word "Local Government" were substituted therefor: see the Amending Act, 1903 (1 of 1903), Sch. II, *part 2*, p. 631.

[4] The words and figures "under section 4, Regulation 24, 1793," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[5] The word "likewise," which was repealed by the Repealing and Amending Act, 1891 (12 of 1891), is omitted.

[6] The words "and the duties levied from pilgrims at *Jagannath*" are omitted, as having been repealed by Act 10 of 1840. The rest of the section was repealed by the Amending Act, 1903 (1 of 1903), and is also omitted.

(Secs. 33-36.)

**33.** The Commissioners having granted *sanads* to certain *zamindars*, *Sanads* entitling them to hold their estates at a fixed *jama* in perpetuity, those *sanads* are hereby confirmed. The following is a list of the names of certain *zamindars* to whom this provision is to be considered applicable :— confirmed.

*Zamindar of Kila Darpan,*

*Zamindar of Kila Sukinda.*

*Zamindar of Kila Madhupur.*

**34.** The Commissioners having likewise granted a *sanad* to Fateh Muhammad, *iagirdar* of *Malud*, entitling him and his heirs for ever, in consideration of certain services performed towards the British Government, to hold his lands exempt from assessment, such *sanad* is hereby confirmed. Also *sanad* granted to Fateh Muhammad, *iagirdar* of *Malud*.

**35.** *First.*—The late Board of Commissioners having concluded a settlement of the land-revenue with certain *zamindars*, whose estates are situated chiefly in the hills and jungles, for the payment of a fixed annual quit-rent in perpetuity, those engagements are hereby confirmed; and no alteration shall, at any time, be made in the amount of the revenue payable under the engagements in question to Government. Also settlement concluded with certain hill and jungle *zamindars*.

*Second.*—The following is a list of the *mahals* to which the provision in the preceding clause is applicable :— List of the *mahals* to which the foregoing clause applies.

*Kila Aull,*

*Kila Kujan,*

*Kila Puttra,*

*Kila Hamishpore,*

*Kila Marichpur,*

*Kila Visunpur.*

*Third.*—The *zamindaris* of *Korda* <sup>[1]</sup> and *Kanka* <sup>[2]</sup> being *mahals* of the description of those specified in the preceding clause, a settlement shall be concluded, as soon as circumstances may admit, for the revenue of those *mahals* on the principle on which a settlement has been concluded with the *zamindars* of the *mahals* specified in the preceding clause. Like settlement to be concluded with *zamindars* of *Khurda* and *Kanaka*.

**36.** All Regulations relating directly or indirectly to the settlement and collection of the public revenue, or to the conduct of the officers employed in the performance of that duty, whether European or Native, in the Province of Bengal, which are not superseded by the foregoing rules, are hereby extended to, and declared to be in force in, the *zila* of Cuttack : Regulations regarding settlement or collection of revenue, etc., in Bengal extended to Cuttack.

[1] Query *Khurda*.  
[2] Query *Kanaka*.



(Sec 37)

**Exceptions**

Provided, however, that nothing herein contained shall be construed to authorize the division of the lands comprised in any estates in the *Jila* of Cuttack [1] in which the succession to the entire estate devolves according to established usage to a single heir: in cases of this nature the Courts of Justice are to be guided by the provisions contained in Regulation 10, 1800 [1]

**37.** *(Similar exceptions applicable to the territory of Mayurbhanj Rep by the Tributary Mahals of Orissa Act, 1893 (11 of 1893))*

[1] The Bengal Inheritance Regulation 1800. It is printed *ante*, p. 81

[2] Portion repealed by the Tributary Mahals of Orissa Act, 1893 (11 of 1893) is omitted

# BENGAL REGULATION 13 OF 1805.

(THE CUTTACK POLICE REGULATION, 1805.)<sup>[1]</sup>

(5th September, 1805.)

## A Regulation for the maintenance of the peace and for the support and administration of the Police in the *zila* of Cuttack, \* \* \* \*.<sup>[2]</sup>

1. Whereas it is essential to the security of the persons and property <sup>Preamble.</sup> of the inhabitants of the districts and lands included in the Province of Cuttack and its dependencies that a regular and efficient system of police should be maintained in the said Province :

\* \* \* \* \*<sup>[3]</sup>  
the following rules have been enacted, to be immediately in force in the Province of Cuttack including the *pargana*[s] of [*Patāspur*,] *Kamardāchor* [and *Bhograī*].

2. [The districts and lands comprised in the Province of Cuttack, <sup>*Zila of*</sup> with the exception of the *parganas* of *Patāspur*, *Kamardāchor* and *Bhograī*, shall be \* \* \*<sup>[4]</sup> denominated the *zila* of Cuttack.] <sup>Cuttack.</sup>

3. The abovementioned *pargana*[s] of [*Patāspur*,] *Kamardāchor* <sup>Certain</sup> [and *Bhograī*,] shall be included, as at present, in the *zila* of Midnapore; <sup>*parganas*</sup> included in *zila* of Midnapore, but subject to Regula-  
subject, however, to all the laws and Regulations which have been or may be enacted for the internal government of the *zila* of Cuttack :

Provided, nevertheless, that it shall at any time be lawful for<sup>[5]</sup> [the Local Government, by notification in the Calcutta Gazette,] to <sup>enacted for</sup> make any alteration with respect to the boundaries of the said *zila*[s] <sup>Cuttack.</sup> of *Midnapore* and] Cuttack which may appear to be expedient.

4. *First*.—The following rules shall be observed in the appointment <sup>Rules for</sup> of *darogas* for the maintenance of the police in the *zila* of Cuttack, and <sup>appointment</sup> of *darogas*.

[1] SHORT TITLE.—This short title was given by the Amending Act, 1903 (1 of 1903), Sch. I—see *post*, p. 618.

LOCAL EXTENT.—This Regulation extends to the District of Cuttack and the *Pargana* of *Kamardāchor*, see ss. 1, 3, 4 (1), 13.

[2] The words and figures “and for amending certain provisions contained in Regulation 4, 1804,” which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[3] Portion of s. 1, which was repealed by *ibid*, is omitted.

[4] The words and figures “formed into one *zila*, instead of two *zilas*, as prescribed in Regulation 4, 1804, and shall be,” which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[5] The words “the Governor General in Council, by an Order in Council,” in the original text, are to be read as if the words “the Local Government, by notification in the Calcutta Gazette,” were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 631.

(Sees. 5-7.)

in the above-mentioned Pargana[s] of [Palāspur.] Kamārdāchor  
[and Bhogrāi:]

Certain  
zamindars  
to continue  
to act as  
police-  
officers in  
their  
respective  
estates.

*Second.*—In cases in which the zamindars, talukdars and other landholders have not been formally divested of the charge of the police within the limits of their respective estates, for misconduct or any other reason, either by the Marāṭha Government or by the Board of Commissioners for the settlement of the affairs of Cuttack, such zamindars, talukdars and other landholders shall continue, under the responsibility stated in section 6, Regulation 4, 1804,[<sup>1</sup>] in charge of the police, according to established usage, within their respective estates: that the principal zamindars, talukdars and other landholders, being proprietors of large estates, shall be constituted darogas of police within the limits of their respective possessions; and the inferior zamindars, talukdars and other landholders, being proprietors of petty estates, shall be considered to be subordinate officers of police, subject to the above mentioned responsibility, under the immediate authority of darogas, who shall be selected and appointed for the maintenance of the police in estates or mahals of the latter description.

*Third.*—(In what cases khandāits to be nominated to the charge under control of darogas.) Rep. by the Amending Act, 1903 (1 of 1903).

Salaries of  
darogas.

*Fourth.*—The darogas who may be appointed under clause second [<sup>2</sup>] of this section shall receive such salaries as the [<sup>3</sup>] Local Government may think proper to fix for their support, on a consideration of the labour and responsibility of the offices held by them.

**5 to 7.** (Lands assigned by the late Government for the maintenance of the sardars and other paiks to be continued to them; Register of the sardar and other paiks; Darogas to fix limits of local authority of the Khandāits, etc.) Rep. by the Amending Act, 1903 (1 of 1903).

[<sup>1</sup>] Ben. Reg. 4 of 1804 was repealed by the Repealing Act, 1868 (8 of 1868); but this reference was saved by section 1 of that Act. The portion of section 6 of Reg. 4 of 1804 which relates to the responsibilities of landholders in the matter of police runs as follows:

"Provided, however, that this Regulation shall not be construed to exonerate the zamindars, farmers or other holders of lands in the zila of Cuttack from the duties and responsibility imposed on them, by the terms of their respective tenures or engagements and the usages of the country, for the prevention of robberies and other disorders and for the maintenance of peace and good order within their respective limits. Such zamindars, farmers and other holders of land shall continue to perform such duties, subject to the same responsibility as heretofore, notwithstanding anything that may be said to the contrary in any Regulation enacted previously to the date of this Regulation."

[<sup>2</sup>] The words "and third," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[<sup>3</sup>] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 631.

## (Secs. 8-13.)

8. Nothing contained in this Regulation shall be construed to *Zamindars*, exempt the *zamindars*, *talukdars*, farmers and other holders of land, al- etc., not though they be not formally constituted officers of police, from the duty from afford- of affording every assistance in the prevention of breaches of the peace ing assist- and in the apprehension of public offenders, who are immediately to be prevent delivered into the custody of the nearest officers of police. breaches of peace, etc.

9. Any *zamindar*, *talukdar* or holder of land exempt from revenue Liability of who may be suspected of conniving at any robbery or other public *zamindars*, offence will be liable to be prosecuted before the Criminal Courts of the (tc., sus- country, and punished on conviction under the general laws and Regu- pected of conniving at robbery, etc.

10, 11. (*Register of lands assigned for sardar and other paiks; above rules not applicable to dusháds or village-watchmen, entertained by land-holders.*) Rep. by the Amending Act, 1903 (1 of 1903).

12. (*Authority of Board of Commissioners in Cuttack discontinued.*) Rep. by the Repealing Act, 1874 (16 of 1874).

13. All laws and Regulations for the maintenance of the police, and Extension of for the administration of justice in criminal cases, in the Province of Regulations Bengal, which have been or shall be enacted, and which shall not be for police and admini- inconsistent with or repugnant to the provisions contained in this Regu- tration of criminal justice to lation, \* \* \* [1] shall have full force and effect in the *zila* of Cuttack Cuttack. and in the *pargana[s]* of [*Patáspur,*] *Kanárdáchor* [*and Bhográi in- cluded in the zila of Midnapore.*]

\*

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\*

\*

\*[2]

[1] The words and figures " and likewise such of the rules contained in Regulation 4, 1804, as are not either specifically or virtually rescinded by the present Regulation," which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

[2] The proviso to s. 13, which was repealed by the Tributary Mahals of Orissa Act, 1893 (11 of 1893), is omitted.

## BENGAL REGULATION 11 OF 1806

(THE BENGAL TROOPS TRANSPORT AND TRAVELLERS' ASSISTANCE  
REGULATION, 1806.)<sup>[1]</sup>

(3rd July, 1806.)

**A Regulation for facilitating the progress of detachments of troops through the Company's territories; for affording any requisite assistance to persons travelling through those territories \* \* \* .<sup>[2]</sup>**

### Preamble.

1. Whereas it is expedient to enact into a Regulation, for general information and observance, the rules which have been established by Government at different times (with such amendments as have been deemed necessary) for facilitating the progress of military detachments through the Company's Provinces, for ascertaining and defraying any necessary expense incurred for that purpose, and for providing compensation when any material damage may be sustained in the cultivation of the country from the march or encampment of troops;

and whereas it has also been judged proper to empower the local officers of police to afford such reasonable assistance as may be required by travellers (whether European or Native) proceeding through their respective jurisdictions in procuring the means of prosecuting their journeys;

[1] **SHORT TITLE.**—This short title was given by the Amending Act, 1897 (5 of 1897), Sch. III—see *post*, p. 545.

**LOCAL EXTENT.**—This Regulation was passed for the whole of the former Province of Bengal see the concluding clause of s. 1, *post*, p. 103.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1873-86, Ed. 1928, p. 43), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the following Scheduled Districts, namely:

the districts of Hazaribagh, Ranchi, Palamau and Manbhum and Pargana Dhalbhum, the Kolhan and the Porahat Estate in the district of Singhbhum in the Chota Nagpur Division, see Vol. IV, Part III.

It is in force in:—

the Angul District, see Vol. IV, Part IV.

the Sonthal Parganas, see Vol. IV, Part IV.

The Deputy Commissioner of Angul is also empowered, by the Angul Laws Regulation, 1913 (3 of 1913), s. 69 (1) (b), (*post*, p. 881), to require proprietors, farmers, rent collectors or occupiers of land to supply provision and labour, at market rates, for the use of troops and officers of the Government, marching in or through the District of Angul on the public service.

**REPEAL AS TO COOLIES.**—Such part of this Regulation as authorizes the Collectors and their native officers, or the Magistrates and their police-officers, to give their official aid in procuring coolies for the purpose of facilitating the march of troops or the progress of Civil and Military officers or other individuals travelling through the country, either on the public service or on their private affairs, was repealed by Ben. Reg. 3 of 1820.

**FURTHER ENACTMENT.**—For further provisions as to the transport of troops, see the Bengal Troops Transport Regulation, 1825 (6 of 1825), *post*, p. 249.

[2] Portions of the title and s. 1 which were repealed by the Amending Act, 1891 (12 of 1891), are omitted.

(Secs. 2-8.)

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\*[<sup>1</sup>]

the following rules have been enacted, to be in force throughout the whole of the Provinces subject to the immediate government of the Presidency of Fort William [<sup>2</sup>] (according as such rules may be applicable to the said Provinces respectively) from the date of their promulgation.

2. Whenever a detachment of troops, or a single corps, shall be ordered to proceed, by land or by water, through any part of the Company's territories the commanding officer of such detachment or corps is required to give the earliest practicable notice to the Collectors [<sup>3</sup>] of the revenue of the *zilas*, through which the troops are to pass, of the probable time of their arrival within such districts respectively; together with information of the probable period of their arrival at the particular places where supplies may be required, and a specification of the supplies which will be wanted.

Notice to be given to Collectors and Magistrates, by officers commanding detachments.

The commanding officer will likewise notify to the Collectors [<sup>3</sup>] the probable period of the arrival of the troops at the rivers or *nalas* intersecting their march, where boats or temporary bridges may be necessary for crossing the troops and the baggage attached to them. \* \* \* [<sup>4</sup>].

3. *First*.—On receiving the notification mentioned in the foregoing section the Collector [<sup>3</sup>] shall immediately issue the necessary orders [<sup>5</sup>] to the landholders, farmers, *tahsildars* or other persons in charge of the lands through which the troops are to pass, for providing the supplies required, and for making any requisite preparations of boats or temporary bridges, or otherwise for enabling the troops to cross such rivers or *nalas* as may intersect their march, without any impediment or delay.

Procedure of Collector on notice.

The Collector [<sup>3</sup>] shall at the same time depute a creditable Native officer to accompany the troops through his jurisdiction, for the purpose of aiding in procuring the necessary supplies and of facilitating the march of the troops.

It shall also be the duty of such Native officer to provide the troops with whatever bearers, coolies, [<sup>6</sup>] boatmen, carts and bullocks may be indispensably necessary to enable the troops to prosecute their route.

[<sup>1</sup>] Portions of the title and s. 1 which were repealed by the Amending Act, 1891 (12 of 1891), are omitted.

[<sup>2</sup>] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

[<sup>3</sup>] As to the exercise of functions of Collectors by other officers, see the Bengal Land-Revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

[<sup>4</sup>] The words "The Commanding Officer will at the same time communicate to the Magistrates of the *zilas* through which the troops are to pass the probable time of the arrival of the troops within their respective jurisdiction," which were repealed by the Amending Act, 1897 (5 of 1897), are omitted.

[<sup>5</sup>] As to fines imposable on landholders and other persons for disobedience to orders issued under this section, see the Bengal Troops Transport Regulation, 1825 (6 of 1825), *post*, p. 249.

[<sup>6</sup>] This Regulation has been repealed as to coolies—see foot-note on p. 102, *ante*.

## (Sec. 4.)

Police to assist in providing bearers, boatmen, carts and bullocks. Rates for supplies furnished to troops

Should he experience any difficulty in the performance of this duty, he is at liberty to apply for assistance to the nearest police-officer, who is directed to afford his aid in providing the number of person, and of carts and bullocks required.

*Second.*—The supplies furnished under the foregoing clause (including earthen pots, firewood and every article of supply) shall be paid for by the persons receiving the same at the current *ba ar* price of the place at which they may be provided;

Commanding officers to inquire into, and redress complaints against persons under their command. Certificate to be granted by commanding officer when troops are provided with boats, etc

and all officers commanding detachments of troops or single corps marching through any part of the Company's territories are enjoined to make immediate inquiry into any complaints which may be preferred to them by the persons furnishing such supplies or in their behalf against any person or persons under their command, and to afford such redress to the complainants as the nature of the case may appear to require.

**4. First.**—Whenever a detachment of troops or single corps shall be provided with boats, temporary bridges or other accommodations by any landholder, farmer, *tahsildar* or other person, conformably to the orders of the Collector<sup>[1]</sup> of the *zila*, for the purpose of crossing the troop and their baggage over rivers or *nalas*, the commanding officer of such detachment or corps will grant a certificate to the person furnishing the same specifying the number of boats and persons employed, the burthen of each boat, and how long employed on the public service.

In instances in which temporary bridges may be constructed for the above purpose the certificate to be granted by the commanding officer is to specify generally the dimensions of the bridges and the materials of which they may be composed.

Certificate to be sent to Collector with account

*Second.*—The certificate mentioned in the foregoing clause shall be immediately transmitted to the Collector<sup>[1]</sup> of the *zila* by the person receiving it, accompanied by a detailed account of the expense incurred for the purposes therein specified.

Account to be sent by Collector to commanding officer. Endorsement by commanding officer.

The Collector<sup>[1]</sup> shall without delay communicate the particulars of the account to the officer commanding the detachment or corps on whose account the expense may have been incurred, who shall certify generally thereon whether the services charged for in it were performed, or shall state such exceptions as he may have to offer to any of the charges.

Account and vouchers to be sent by Collector with his report to

*Third.*—When the account above mentioned shall be returned to the Collector<sup>[1]</sup> he shall certify whether the sums and rates charged in it are in his opinion reasonable and conformable to the usual rates of labour and hire in the *zila*; and shall transmit the account, with the vouchers

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, post, p. 235.

## (Sec. 5.)

and certificates relating to it, with any requisite observations thereupon, through the prescribed channel, to the [1] [Local Government].

Governor  
General

After the account shall have undergone the examination and report prescribed for all military contingent charges, the [1] [Local Government] will pass such final order as may appear proper.

In the meantime the Collector[2] is empowered in such cases to pay the amount of the charge, or such proportion of it as he may consider reasonable, to the landholder, farmer or other person entitled thereto; inserting the amount so disbursed by him at the foot of his treasury-account, in explanation of his treasury-balance, in the mode prescribed for similar cases.

Collector  
may pay  
charge if  
reasonable.

**5. First.**—Whenever a proprietor, farmer, tenant, or manager of land through which any detachment or corps of the Company's troops may march, or on which they may be encamped, shall consider himself entitled to compensation for any injury sustained from the march or encampment of the troops, he shall immediately furnish the commanding officer of such troops with as accurate a statement as can be prepared of the nature and extent of the injury sustained; when the commanding officer is required to certify generally thereon whether or not the damage represented to have been sustained has been actually committed, together with his opinion respecting the justice and extent of the claim.

Procedure  
for land-  
holders, etc.,  
sustaining  
injury from  
march or  
encampment.

Certificate  
by com-  
manding  
officer.

**Second.**—If the proprietor, farmer, tenant or manager, after receiving such certificate, shall consider himself entitled to compensation, he will be at liberty to present the statement of his claim, with the commanding officer's certificate thereon, to the Collector[2] of the *zila* (either in person or by his *vakil*) within ten days from the date of the certificate; but no claim of this description shall be received by the Collector[2] after the expiration of that period, unless the person preferring it shall assign good and satisfactory reason for the delay.

Certificate  
with state-  
ment of  
claim to be  
presented to  
Collector  
within ten  
days.

The Collector,[2] on receiving a statement of damage and the commanding officer's certificate thereon within the prescribed period, or afterwards if sufficient reason be assigned for the delay, shall forthwith adopt such measures as may appear requisite to ascertain whether or not the claim be well founded; and shall report his proceedings to the Board of Revenue,[8] accompanied by his opinion on the merits of the claim, for the consideration and orders of Government.

[1] These words in square brackets in s. 4 (3), were substituted for the words "Governor General in Council" by the Amending Act, 1897 (5 of 1897), Sch. II.—see *post*, p. 542.

[2] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

[8] As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. II of this Code.



(Secs. 6-8.)

It is, however, declared that no claim will be received unless accompanied by the prescribed certificate of the commanding officer of the troops by whom the damage may be stated to have been committed; excepting in instances in which the claimant can show good and sufficient cause for not having obtained such certificate.

In such cases, if the Collector<sup>[1]</sup> shall be satisfied with the cause assigned by the claimant for not having obtained the prescribed certificate, he shall transmit the petition and statement of the claimant to the officer commanding the troops by whom the damage may be stated to have been committed, and shall wait his reply thereto previously to determining whether or not the claim be entitled to investigation.

Procedure by Magistrates on receiving notice mentioned in section 2.

6. Immediately on receiving the notification mentioned in section 2, the Magistrates shall transmit orders to the several police-*dargas* or other local officers of the police through whose jurisdiction the troops are to pass to afford every assistance in their power to facilitate the march of the troops through their respective jurisdictions; and to co-operate, as far as necessary, with the person deputed on the part of the Collector<sup>[1]</sup> in procuring the requisite supplies, as well as in adjusting any disputes which may arise respecting the prices of the articles furnished, and in preventing any alarm to the inhabitants of the country.

Report to Commander-in-Chief by officers commanding troops on march.

7. Officers commanding detachments of troops or single corps on their march through any part of the Company's territories are already required, by the general orders issued under date the 1st of February, 1788, to report to the Commander-in-Chief in what manner the troops have been supplied in passing through the districts lying in their route.

In like manner, the Collectors<sup>[1]</sup> are directed to report to the Board of Revenue<sup>[2]</sup>, \* \* \*<sup>[3]</sup>, any complaints which may be made to them of the misbehaviour of the troops, when such complaints shall appear to be well founded and of sufficient importance to require communication to Government.

Police empowered, in cases of necessity, to assist travellers in prosecuting their route.

8. Whenever any military officer, not commanding nor proceeding with a corps or detachment of troops, or any other person (whether European or Native) not restricted by Government from passing through the country, may be proceeding within any part of the Company's Provinces, either on the public service or on his private affairs, and shall

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 235.

[2] As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[3] The words "and the Magistrates to report to the *Nizamat Adalat*, for the information of the Governor General in Council," which were repealed by the Amending Act, 1897 (5 of 1897), are omitted.

(Secs. 9-10.)

be in need of assistance during his route to enable him to prosecute his journey, he shall be at liberty to apply to the nearest local officer of police to aid him in providing any requisite bearers, *coolies*,<sup>[1]</sup> boatmen, carts or bullocks, or any necessary supplies of provisions or other articles.

On receiving an application of the above nature the police-officer to whom it may be made shall furnish the aid required, or cause it to be furnished by the proper person or persons : provided that a sufficient number of persons who have been accustomed to act as bearers, *coolies*<sup>[1]</sup> or boatmen, or the requisite number of carts and bullocks, not exclusively appropriated to the purposes of agriculture and occasionally let for hire, can be procured within his jurisdiction.

But all police-officers are strictly forbidden, under pain of dismissal from office \* \* \*<sup>[2]</sup>, on applications of the above nature, to compel any persons not accustomed to act as bearers, *coolies*<sup>[1]</sup> or boatmen, to serve, on such occasions, or to furnish a traveller, or cause him to be furnished, with bullocks or carts kept for private use and not for hire, or exclusively appropriated to the purposes of agriculture.

Persons so employed, and the persons in charge of carts and bullocks so provided, shall be at liberty to return from the first police-station in the next *zila* through which the corps or detachment is to march, unless a voluntary engagement to the contrary may be entered into by such persons.

The police-officers are further enjoined to be careful that a proper compensation for the bearers, *coolies*, boatmen, carts or bullocks employed, and a just price for the provisions or other articles provided, be secured to the persons entitled thereto.

For this purpose the police-officers are authorized to adjust the rate of hire to be paid for the bearers, *coolies*,<sup>[1]</sup> boatmen, carts and bullocks required and the price of any articles provided, as well as to demand that the whole or a part, according to the circumstances of the case, be paid in advance.

Should any traveller refuse to comply with the adjustment or demand so made by a police-officer, he will not be entitled to any assistance from the officers of Government under this Regulation.

9. (*Prohibition against persons not in the military service wearing military dress.*) Rep. by the Repealing Act, 1874 (16 of 1874.)

10. (*Trial of military guards by martial law in certain cases.*) Rep. by the Repealing Act, 1876 (12 of 1876).

[1] This Regulation has been repealed as to *coolies*—see foot-note on p. 102, *ante*.

[2] The words and figures "under the rules prescribed by Regulation 5, 1804," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

*The Bengal Troops Transport [Ben. Reg. 11 of 1806.]  
and Travellers' Assistance Regulation, 1806.*

(Sers. 11-20.)

**11, 12.** (*Rules for promulgating Regulations*) Rep. by the Repealing Act, 1874 (16 of 1874).

**13 to 19.** (*Rules for supplying military guards or detachments, permanent guards; temporary guards; monthly report of guards, etc supplied; application of rules; non-applicability in Presidency stations*) Rep. by the Repealing Act, 1876 (12 of 1876)

**20.** (*Repeal of cl (1), s 22, of Reg 1 of 1801*) Ren by Ben Reg<sup>n</sup> of 1817.

## BENGAL REGULATION 19 OF 1810.

(THE BENGAL CHARITABLE ENDOWMENTS, PUBLIC BUILDINGS AND  
ESCHEATS REGULATION, 1810.)<sup>[1]</sup>

(14th December, 1810.)

**A Regulation for the due appropriation of the rents and produce of lands granted for the support of \* \* \*<sup>[2]</sup> colleges and other purposes ; for the maintenance and repair of \* \* \*<sup>[3]</sup> public buildings ; and for the custody and disposal of *nazul* property or escheats.**

**1.** Whereas considerable endowments have been granted in land by the preceding Governments of this country and by individuals for the support of \* \* \*<sup>[2]</sup> colleges and for other \* \* \*<sup>[4]</sup> beneficial purposes ; and whereas there are grounds to suppose that the produce of such lands is in many instances appropriated, contrary to the intentions of the donors, to the personal use of the individuals in immediate charge and possession of such endowments ; and whereas it is an important duty

Preamble.

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<sup>[1]</sup> SHORT TITLE.—This short title was given by the Amending Act, 1903 (1 of 1903), Sch. I—see *post*, p. 619.

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal—see s. 1.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1873-86, Ed. 1928, p. 48), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the districts of Hazaribagh, Ranchi, Palamau and Manbhum, and Pargana Dhalbhum, in the district of Singhbhum, in the Chota Nagpur Division, see Vol. IV, Part III.

The application of the Regulation in the deregulationised tracts in Bihar and Orissa is barred as follows, namely :—

in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 768.

in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, *post*, p. 700.

PARTIAL REPEALS.—Such parts of Ben. Reg. 19 of 1810 as require that the Board of Revenue should provide, with the sanction of the Government, for the due repair of public edifices of the description of bridges, *sardis* and *kattras*, were repealed by Ben. Reg. 17 of 1816, s. 16.

So much of Ben. Reg. 19 of 1810 as relates to endowments for the support of mosques, Hindu temples or other religious purposes was repealed by the Religious Endowments Act, 1863 (20 of 1863), printed in General Acts, 1834-72, Ed. 1928, p. 141. See the saving in s. 23 of that Act.

<sup>[2]</sup> The words "Mosques, Hindu temples," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

<sup>[3]</sup> The words "bridges, *sarais*, *kattras* and other," which were repealed by *ibid*, are omitted.

<sup>[4]</sup> The words "pious and," which were repealed by *ibid*, are omitted.

(Secs. 2-4.)

of every Government to provide that all such endowments be applied according to the real intent and will of the grantor; and whereas it is moreover essential to provide for the maintenance and repair of \* \* \* [1] buildings which have been erected either at the expense of Government or of individuals for the use and convenience of the public, and also to establish proper rules for the custody and disposal of *wazil* property or escheats, the following rules have been enacted, to be in force, from the period of their promulgation, throughout the Provinces immediately dependent on the Presidency of Fort William. [2]

Superintendence of lands granted for support of colleges, &c

2. The general superintendence of all lands granted for the support of \* \* \* [3] colleges and for other \* \* \* [4] beneficial purposes, and of all public buildings, such as bridges, *sardis*, *kattras* and other edifices, is hereby vested in the Board of Revenue [5] \* \* \* [6].

Appropriation of endowments

3. It shall be the duty of the Board of Revenue [6] \* \* \* [7] to take care that all endowments made for the maintenance of establishments of the above description be duly appropriated to the purpose for which they were destined by the Government or individual by whom such endowments were granted.

In like manner it shall be the duty of [8] [the Board of Revenue] [6] to provide, with the sanction of Government, for the due repair and maintenance of all public edifices which have been erected, either at the expense of the former or present Government or of individuals, and which either at present are or can conveniently be rendered conducive to the convenience of the community. [9]

Disposal of ruined buildings.

4. In those cases, however, in which any of the buildings in question have fallen to decay, and cannot, from that or other causes, be conveniently repaired, or are not calculated if repaired to afford any material

[1] The words "bridges, *sardis*, *kattras* and other," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[2] This includes the present Province of Bihar and Orissa except the districts of Sambalpur.

[3] The words "Mosques, Hindu temples," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[4] The words "pious and," which were repealed by *ibid*, are omitted.

[5] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3, in Vol. III of this Code.

[6] The words "and Board of Commissioners in the several districts subject to the control of those Boards respectively," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[7] The words "and Board of Commissioners," which were repealed by *ibid*, are omitted.

[8] These words in square brackets in s. 3 were substituted for the words "those Boards" by the Amending Act, 1903 (1 of 1903), Sch. II see *post*, p. 631.

[9] This paragraph was repealed, as to public edifices of the description of bridges, *sardis* and *kattras*, by Ben. Reg. 17 of 1816, s. 16.

(Secs. 5-9.)

accommodation to the public, the<sup>[1]</sup> [Board]<sup>[2]</sup> shall recommend that they be sold on the public account, or otherwise disposed of, as may appear most expedient.

5. Under the foregoing rules it will of course be incumbent on the Board of Revenue<sup>[2]</sup> \* \* \*<sup>[3]</sup> to prevent any lands which have been granted for the support of establishments of the above description from being converted to the private use of individuals, or appropriated in any other mode contrary to the intent and will of the donor; and likewise to prevent all public edifices from being usurped by individuals and falling into the possession and exclusive use of private persons. Lands or public edifices not to be appropriated by individuals for private uses.

6. Whenever the Board of Revenue<sup>[2]</sup> \* \* \*<sup>[3]</sup> may be of opinion that any of the above-mentioned edifices require repair, they shall obtain the necessary estimates of the expense required for the execution of the work, and forward them to Government for its approval. Estimates of necessary repairs to be submitted to Government.

7. The general superintendence of all *nazul* property or escheats is likewise hereby vested in the Board of Revenue<sup>[2]</sup> \* \* \*<sup>[4]</sup>, who will inform themselves fully through the channel hereafter mentioned of all property of that description, and [direct whether it should]<sup>[5]</sup> be sold on the public account, or in what other mode it should be disposed of. Superintendence of *nazul* property.

8. To enable the Board of Revenue<sup>[2]</sup> \* \* \*<sup>[5]</sup> the better to carry into effect the duties intrusted to them by this Regulation, local agents shall be appointed in each *zila* subject to the authority, control and orders of<sup>[6]</sup> [the Board].<sup>[2]</sup> Appointment of local agents.

9. The Collector of the *zila* shall be *ex-officio* one of those agents, with whom the<sup>[7]</sup> [Local Government] will unite such other public officers, whether in the civil, military or medical branch of the service, as may from time to time be judged expedient. Collector to be *ex-officio* agent with others.

[1] The word "Board" in s. 4 was substituted for the word "Boards" by the Amending Act, 1903, Sch. II—see *post*, p. 631.

[2] As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[3] The words "and Board of Commissioners," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[4] The words "and Board of Commissioners respectively," which were repealed by *ibid*, are omitted.

[5] The words "and Board of Commissioners," which were repealed by *ibid*, are omitted.

[6] The words "the Board" in s. 8 were substituted for the words "those Boards respectively" by the Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 632.

[7] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 632.

[8] The words "direct whether it should" were substituted for the words "report to Government whether it should in their opinion" by the Bihar and Decentralization Act, 1916 (B. & O. Act 3 of 1916), s. 2, Sch. II, Part I, of this Code.

(Secs. 10-13.)

Agents to ascertain and report particulars of endowments, etc.;

**10.** Under the provisions of the present Regulation it will of course be the duty of the agents to obtain full information from the public records, and by personal inquiries, respecting all endowments, establishments and buildings of the nature of those above described, and of all *nazul* property or escheats, and to report to the Board<sup>[1]</sup> \* \* \*<sup>[2]</sup> any instances in which they may have reason to believe that the lands or buildings are improperly appropriated; being in all cases careful not to infringe any private rights, or to occasion unnecessary trouble or vexation to individuals.

also names, etc.; of present trustees or managers;

**11.** The said agents will further ascertain and report the names, together with other particulars, of the present trustees, managers or superintendents of the several institutions, foundations or establishments above described, whether under the designation of *matārah* or any other, and by whom and under what authority appointed or elected, and whether in conformity to the special provisions of the original endowment and appropriation by the founder, or under any general rule or maxim applicable to such institutions and foundations.

and all vacancies or casualties, with full information as to pretensions of claimants;

**12.** The local agents will also report to the <sup>[3]</sup> [Board of Revenue] <sup>[1]</sup> all vacancies and casualties which may occur, with full information of all circumstances, to enable the <sup>[4]</sup> [Board] <sup>[1]</sup> to judge of the pretensions of the person or persons claiming the trust; particularly whether the succession have been heretofore by inheritance in the line of descent, or whether the successor have been in former instances elected, and by whom, or whether he have been nominated by the founder or his heir or representative, or by any other individual patron of the foundation, or by any officer or representative of Government, or directly by the Government itself.

to recommend fit persons in cases where nomination rests in Government.

**13.** In those cases in which the nomination has usually rested with the present or former Government, or with a public officer, or of right appertains to Government, in consequence of no private person being competent and entitled to make sufficient provision for the succession to the trust and management, it will be the further duty of the local agents to propose, for the approval and confirmation of the <sup>[5]</sup> [Board

[1] As to the present constitution and powers of the Board of Revenue see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[2] The words "to whose authority these agents are respectively subject," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[3] The words "Board of Revenue" in s. 12 were substituted for the words "superior Boards," by the Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 532.

[4] The word "Board" was substituted for the word "Boards" by *ibid*.

[5] The words "Board of Revenue" in s. 13 were substituted for the words "superior Board," by *ibid*.

(Secs. 14-16.)

of Revenue], [1] a fit person or persons for the charge of trustee or manager and superintendent, duly attending to the qualifications of the person selected, and to any special provisions of the original endowment and foundation, and to the general rules or the known usages of the country applicable to such cases.

14. On the receipt of the report and information required by the preceding clause, the Board of Revenue[1] \* \* \* [2] will either appoint the person or persons nominated for their approval, or will make such other provision for the trust, superintendence and management as may be right and fit with reference to the nature and conditions of the endowment, having previously called for any requisite further information from the local agents.

Board to  
appoint  
such persons,  
or make  
other pro-  
vision for  
trust.

15. Nothing contained in this Regulation shall be construed to preclude any individual who may conceive that he has just grounds of complaint on account of any orders which may be passed by any of the above-mentioned authorities, with respect to the appropriation of any lands or buildings of the nature of those above described, from suing \* \* \* [3] for the recovery thereof in the regular course of law, or for compensation in damages for any loss or injury supposed to have been unduly sustained by him.

Saving of  
private  
rights

16. It is to be clearly understood that the object of the present Regulation is solely to provide for the due appropriation of lands granted for public purposes agreeably to the intent of the grantor, and not to resume any part of the produce of them for the benefit of Government.

Object of  
Regulation.

In like manner it is fully intended that all buildings erected by the former or present Government or by individuals for the convenience of the public should be exclusively appropriated to that purpose, with the exception of such as have fallen to decay and cannot from that or any other cause be conveniently repaired, or which, under existing circumstances, can no longer contribute to the accommodation of the community.

[1] As to the present constitution and powers of the Board of Revenue see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[2] The words "or Board of Commissioners," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[3] The words "in the mode and form prescribed by the Regulations, unless Government or public officers are parties; or under the general provisions of the Regulations, if the suit be brought against a competitor or other private person," which were repealed by *ibid*, are omitted.



# BENGAL REGULATION 5 OF 1812.

(THE BENGAL LAND-REVENUE SALES REGULATION, 1812.)<sup>[1]</sup>

(1st May, 1812)

**A Regulation for amending some of the rules at present in force for the collection of the Land-revenue.**

**1.** (*Preamble and local extent.*) *Rep. by the Repealing Act, 1874 (16 of 1874).*

Proprietors competent to grant leases for any term.

[<sup>2</sup>]**2.** \* \* \* [<sup>3</sup>] Proprietors of lands are declared competent to grant leases for any period which they may deem most convenient to themselves and tenants and most conducive to the improvement of their estates.

Proprietors competent to grant leases and receive engagements in any convenient form.

[<sup>2</sup>]**3.** \* \* \* [<sup>3</sup>] The proprietors of land shall henceforward be considered competent to grant leases to their dependent *talukdars*, under-farmers and *ruiyats*, and to receive correspondent engagements for the payment of rent from each of those classes, or any other classes of tenants, according to such form as the contracting parties may deem most convenient and most conducive to their respective interests :

Prohibition of arbitrary cesses.

Provided, however, that nothing herein contained shall be construed to sanction or legalize the imposition of arbitrary or indefinite cesses, whether under the denomination of *abwab*, *mathat* or any other denomination.

[<sup>1</sup>] **SHORT TITLE.**—This short title was given by the Amending Act, 1903 (1 of 1903), Sch. I—*see post*, p. 619.

**LOCAL EXTENT.**—This Regulation has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6, printed in General Acts, 1873-86, Ed. 1923, p. 48, to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

The Regulation has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), *see* s. 3, to be in force in the districts of Hazaribagh and Manbhum, and Pargana Dhalbhum, in the district of Singhbhum, in the Chota Nagpur Division, *see* Vol. IV, Part III.

The Regulation is in force in the Sonthal Parganas, *see* Vol. IV, Part IV, but its application is barred in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 768.

[<sup>2</sup>] S. 2 is explained in the Bengal Leases and Land-revenue Regulation, 1812 (18 of 1812), s. 2, *post*, p. 121.

Leases made in conformity to ss. 2 and 3 are to remain in full force notwithstanding the partition, sale, devolution, gift, etc., of an estate—*see* the Bengal Leases and Land-revenue Regulation, 1812 (18 of 1812), s. 3, *post* p. 122.

Ss. 2, 3, 4, 26 and 27 are repealed by the Bengal Tenancy Act, 1885 (8 of 1885), s. 2 (1) (*post*, p. 403), in the whole of the former Province of Bengal "except the town of Calcutta, the Division of Orissa and the Scheduled Districts." They have subsequently been repealed for the Division of Orissa also, *see* the Orissa Tenancy Act, 1913 (B. and O. Act 2 of 1913), s. 2, Sch. I, Part I, in Vol. III of this Code.

The extension of the repeal to Scheduled Districts depends upon the terms of notifications extending the Act of 1885 to such districts.

[<sup>3</sup>] Repealing clauses in ss. 2 and 3, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

(Secs. 4-25.)

All stipulations or reservations of that nature shall be adjudged by the Courts of Judicature to be null and void : but the Courts shall notwithstanding maintain and give effect to the definite clauses of the engagements contracted between the parties, or, in other words, enforce payment of such sums as may have been specifically agreed upon between them.

[1]4. \* \* \* \* \* [2] Neither any person deputed to attach lands on the part of Government, nor purchasers at the public sales, shall be deemed entitled to annul existing leases within the year in which the attachment or sale may have taken place, on the ground that such leases were evidently collusive, without a decision to that effect in a Court of Judicature \* \* \* [3].

No attacher of lands on part of Government or purchaser at public sales, entitled to annul existing leases within year.

5 to 23. (*Rules as to rates at which purchasers of land may collect during year in which sale took place; rules to apply to sequestrators, etc., holding under authority of Boards of Revenue or Commissioners; modifications of existing rules for recovery of arrears.*) Rep. by the Bengal Rent Act, 1859 (10 of 1859).

24. It is hereby declared that sales made of entire estates for the recovery of arrears of public assessment are not liable to be annulled by the Courts of Judicature on the ground that one or more of the sharers may not have obtained possession of his or their interests in the property.

Sales of entire estates not liable to be annulled on ground of some sharers not having obtained possession.

The consideration of and decision on the expediency of selling the entire estate, or of disposing in the first instance of any particular part of it, is hereby declared to reside in the Board of Revenue [4] \* \* \* [5] subject to the control exercised by the Government, in its executive capacity, in matters connected with the public revenue.

25. No means existing by which any certain or accurate computation can be formed *a priori* of the real value of any estate, or portion of estate, which may be exposed to sale for the recovery of arrears of public assessment, or of the adequacy of the price which may be offered for such estate, or portion of estate; it is hereby declared that sales made at public auction for that purpose are not liable to be annulled by the Courts of Judicature on the ground that the proceeds of the sales have materially exceeded the amount of the arrears due from the proprietor of the lands of Government.

Nor on ground of proceeds having materially exceeded arrears due.

[1] As to the local repeal of ss. 4 and 26, see the concluding paragraphs of footnote [2] on p. 114, *ante*.

[2] Portion of s. 4, which was repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

[3] The words and figures "the case to be tried as a summary suit under Regulation 7, 1799," in s. 4, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[4] As to the present constitution and powers of the Board of Revenue see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[5] The words "and Board of Commissioners, respectively," which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

(Secs. 26-28.)

The Board of Revenue [1]\* \* \* [2] will be guided in cases of that nature by their own discretion; subject, of course, to any instructions with which they may at any time be furnished by the [3] [Local Government].

Appoint-  
ment by  
Judges of  
managers  
of joint-  
undivided  
estates

[4]26. Inconvenience to the public and injury to private rights having been experienced in certain cases from disputes subsisting among the proprietors of joint-undivided estates it is hereby enacted that whenever sufficient cause shall be shown by the Revenue Authorities, or by any of the individuals holding an interest in such estates, for the interposition of the Courts of Judicature, it shall be competent to the Zila \* \* [5] Judges to appoint a person, duly qualified and under proper security, to manage the estate; that is, to collect the rents and discharge the public revenue, and provide for the cultivation and future improvement of the estate \* \* \* [6].

Court may  
be moved  
for removal  
of managers.

[7]27. In like manner, should the Authorities aforesaid, or any individual holding an interest in the estate, be at any subsequent time dissatisfied with the conduct of the manager, it shall be competent for them or him to represent the circumstances of the case to the Zila \* \* [8] Judge, and to move the Court for the removal of the said manager \* \* \* [9].

28. (*Penalty and interest on arrears.*) *Rep. in part by Ben. Reg. 12 of 1824. Residue rep. by Ben. Reg. 7 of 1830.*

[1] As to the present constitution and powers of the Board of Revenue see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol III of this Code.

[2] The words "and Board of Commissioners," which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

[3] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor--see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 632.

[4] As to the local repeal of ss 4 and 26, see the concluding paragraphs of foot-note [2] on p. 114, *ante*.

[5] The words "and City," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[6] Portion of s. 26 which was repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

[7] As to the local repeal of s. 27, see the concluding paragraphs of foot-note [2] on p. 114, *ante*.

[8] The words "or City," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[9] Words repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

## BENGAL REGULATION 11 OF 1812.

(THE BENGAL FOREIGN IMMIGRANTS REGULATION, 1812.)<sup>[1]</sup>

(18th July, 1812.)

**A Regulation to empower the <sup>[2]</sup>[Local Government] to order the removal of emigrants from foreign countries, and their descendants, from any place in the vicinity of the frontier of the State from which they may have emigrated ; and, in certain cases, to place and detain any such persons in safe custody ; and likewise to provide for the trial of emigrants and their descendants who may excite disturbances in the countries from which they may have emigrated, and of persons aiding them in the prosecution of such attempts.**

**1.** Whereas considerable bodies of persons, being Natives of Arakan and ordinarily denominated Mughs, have from time to time emigrated from that country and established themselves in that part of the district of Chittagong which lies contiguous to the Arakan frontier ;

Preamble

And whereas numbers of those persons, or of their descendants, abusing the protection which had been afforded to them in the British territories, have excited disturbances and even levied war in the country of Arakan against the Government of Ava,<sup>[3]</sup> of which State Arakan is now a dependency, and have conducted themselves in a manner manifestly tending to disturb the relations of amity which subsist between the British Government and the Government of Ava ;<sup>[3]</sup>

And whereas it is, in consequence, necessary that the <sup>[2]</sup>[Local Government] should possess legal powers to remove the said bodies of

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<sup>[1]</sup> **SHORT TITLE.**—This short title was given by the Amending Act, 1897 (5 of 1897), Sch. III—see *post*, p. 546.

**LOCAL EXTENT.**—This Regulation was passed for the whole of the former Province of Bengal—see the concluding paragraph of s. 1, *post*, p. 118.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (in General Acts, 1873-86, Ed. 1928, p. 48), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

The Regulation is in force in the district of Angul, see Vol. IV, Part IV ; and the Sonthal Parganas—*ibid*.

**OTHER ENACTMENTS.**—For powers for preventing subjects of Foreign States from residing or sojourning in British India, or from passing through or travelling therein, see the Foreigners Act, 1864 (3 of 1864), in General Acts, 1834-72, Ed. 1928, p. 158.

For other enactments relating to foreigners, see the title "Alien" in the Index to the Indian Statutes, Ed. 1911, p. 29.

<sup>[2]</sup> The words "Local Government" were substituted for the words "Governor General in Council" by the Amending Act, 1897 (5 of 1897)—see Sch. II, *post*, p. 542.

<sup>[3]</sup> The Government of Ava has ceased to exist, its territories having been annexed to the British Dominions. The territories are now known as "Upper Burma."

(Secs. 2-3.)

emigrants and their descendants from the frontier of the territory of Arakan, or any other bodies of aliens, or their descendants, from the vicinity of the country from which they may have emigrated, and likewise to detain in confinement any of those persons, or any other individuals being Natives of foreign countries, or their descendants, for offences of the above nature actually committed by them in the territories of the State from which they may have emigrated;

And whereas it is necessary to make provision for the trial of persons committing, or aiding in the commission of, the said offences, the following rules have been passed, to be in force from the period of their promulgation throughout the territories immediately dependent on the Presidency of Fort William.[<sup>1</sup>]

Power to  
order  
removal of  
emigrants  
to parts of  
country  
deemed  
convenient.

2. Whenever the [<sup>2</sup>][Local Government], upon due investigation, shall be satisfied that the emigrants from Arakan, or emigrants from any other State, who may have sought an asylum in the British territories, or the descendants of any of the said emigrants, shall have abused the protection afforded to them, by attempts to excite disturbances in the State from which they or their ancestors may have emigrated, it shall be competent to the [<sup>2</sup>][Local Government] to order the removal of those persons to such other part or parts of the country as may be judged most convenient for their future residence.

In like manner it shall be competent to the [<sup>2</sup>][Local Government] to order such removal whenever [<sup>3</sup>][it] may have grounds to be satisfied that the residence of any body of aliens, or their descendants, in the vicinity of the frontier of the country from which they or their ancestors may have emigrated, is likely to cause any serious misunderstanding between that State and the British Government.

Emigrants  
allowed to  
dispose of  
property.

3. Whenever any body of emigrants, or any individuals belonging to such body, shall be ordered to be removed from the part of the country in which they may have been established, they shall be allowed to dispose of any property which they may have acquired in such manner as they may judge proper :

Provided, however, that if they shall nevertheless retain the right to any real property at the period of their actual removal, it shall be competent to the [<sup>2</sup>] [Local Government] to order such property to be

[<sup>1</sup>] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

[<sup>2</sup>] The words "Local Government" were substituted for the words "Governor General in Council" by the Amending Act, 1897 (5 of 1897)—see Sch. II, *post*, p. 542.

[<sup>3</sup>] The word "it" was substituted for the word "he", by the Burma Laws Act, 1898 (13 of 1898), s. 16, printed in the Burma Code, Vol. I, Ed. 1924, p. 94.

(Secs. 4-5.)

sold by public auction under the superintendence of the Collector<sup>[1]</sup> of the district.

In that case the nett proceeds of the sale shall be duly paid to the person or persons to whom the said property belonged.

4. In cases in which the <sup>[2]</sup> [Local Government] may, on due inquiry and mature deliberation, be satisfied that either the preservation of the tranquillity of the British territories, or of the dominions of the allies of the British Government, or the maintenance of the relations of amity subsisting between the British Government and other States, requires that any of the leaders or other persons of the above description, who may have committed the offences mentioned in section 2 of this Regulation, should be placed and detained under restraint, it shall be competent to the <sup>[2]</sup> [Local Government] to order any such persons having committed any of the said offences, but not otherwise, to be apprehended and committed to confinement at such place, and under the custody of such public officer, and detained in confinement for such time, as may be deemed by the <sup>[2]</sup> [Local Government] necessary for the public good.

Power to order leaders or other emigrants to be apprehended and kept under restraint.

5. *First*.—Any persons of the above description, or their descendants, who, while living under the protection of the British Government, shall enter the country from which they or their ancestors may have emigrated, or any other foreign country, and shall excite, or attempt to excite, disturbances in the said countries, shall be liable to be brought to trial for that offence \* \* <sup>[3]</sup> and, if convicted, shall be sentenced to suffer imprisonment for the period of seven years.

Punishment for emigrants or their descendants exciting disturbances in countries from which they emigrated.

*Second*.—Any persons, whether Native British subjects or aliens, who shall furnish emigrants from foreign countries with any assistance, either of men, money or arms, in prosecution of their attempts to excite disturbances in the country from which they may have emigrated, or in any other country, or shall otherwise aid such aliens in the prosecution of their criminal design, shall be liable to be brought to trial for that offence \* \* <sup>[3]</sup> and, if convicted, shall be sentenced to suffer imprisonment for the term of seven years :

Punishment for persons aiding or assisting in attempts to excite such disturbances.

Provided, however, that, if the Judge \* \* <sup>[4]</sup> by whom the case may be tried shall be of opinion that the punishment established by this and the preceding clause should in any instance be mitigated, he shall

Proviso.

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

[2] The words "Local Government" were substituted for the words "Governor General in Council" by the Amending Act, 1897 (5 of 1897)—see Sch. II, *post*, p. 542.

[3] The words "before the Court of Circuit," in clauses *First* and *Second* of s. 5, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[4] The words "of Circuit," which were repealed by *ibid*, are omitted.

## (Sec. 6)

submit the proceedings held on the trial<sup>[1]</sup> [to the Local Government, and the Local Government shall pass such orders thereon as it may think fit]

Provided moreover, that no sentence or order which may be passed on the trial of any persons under the provisions of the present Regulation shall be competent, or shall be construed, to preclude the [ ] [Local Government] from the exercise of the power vested in the Government by section 4 of <sup>[2]</sup> [this Regulation]

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[1] These words in square brackets were substituted for the words "to the *Nizamat Adalat*, who will recommend to the Governor General in Council such abbreviation of the prescribed punishment as they may judge proper" by the Amending Act, 1897 (5 of 1897)— *see* Sch II, *post*, p 542

[2] The words "Local Government" were substituted for the words "Governor General in Council" by *ibid*

[3] The words "this Regulation" were substituted for the words "the said Regulation" by the Amending Act, 1903 (1 of 1903), *see* Sch II, *post*, p 632

## BENGAL REGULATION 18 OF 1812.

(THE BENGAL LEASES AND LAND-REVENUE REGULATION, 1812.)<sup>[1]</sup>

(19th September, 1812.)

**A Regulation for explaining section 2, Regulation 5, 1812,<sup>[2]</sup> and rescinding sections 3 and 4, Regulation 44, 1793, and sections 3 and 4, Regulation 50, 1795,<sup>[3]</sup> and enacting other rules in lieu thereof.**

**1.** Whereas it has been deemed expedient to remove doubts which have arisen on the construction of section 2, Regulation 5, 1812,<sup>[2]</sup> and to rescind sections 3 and 4 of Regulation 44, 1793, and sections 3 and 4 of Regulation 50, 1795, <sup>[3]</sup> the following rules have been enacted, to be in force from the promulgation of them in the Province[s] of [Bengal,] Bihar, Orissa (exclusive of the district of Cuttack) [and the parganas formerly dependant on that district but now annexed to the zila of Midnapore] \* \* <sup>[4]</sup>

**2.** Doubts having arisen on the construction of section 2, Regulation 5, 1812,<sup>[2]</sup> it is hereby explained that the true intent of the said section was to declare proprietors of land competent to grant leases for any period, even to perpetuity, and at any rent which they might deem conducive to their interests :

Explanation of section 2, Regulation 5, 1812, as to granting leases in perpetuity or otherwise.

Provided, however, that nothing contained in the former or present Regulation shall be construed to empower persons holding a restricted interest in estates, whether for life or for other limited period, or subject to control or restriction in the use or disposal of the property, to grant leases extending beyond the term of their own interest in the property, or exceeding their power or authority over it.

<sup>[1]</sup> SHORT TITLE.—This short title was given by the Amending Act, 1903 (1 of 1903), Sch. I—see *post*, p. 619.

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal,—except the District of Cuttack (and the Parganas which are transferred from that District to the District of Midnapur) (see s. 1). It has, however, been repealed by the Bengal Tenancy Act, 1885 (8 of 1885), s. 2 (1), *post*, p. 403, in the whole of Bengal except “the town of Calcutta, the Division of Orissa and the Scheduled Districts.”

The extension of the repeal to Scheduled Districts depends upon the terms of notifications extending the Act of 1885 to such districts. The Regulation is in force in the Sonthal Parganas—see Vol. IV, Part IV; but its application is barred in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 768.

<sup>[2]</sup> The Bengal Land-revenue Sales Regulation, 1812. S. 2 is printed *ante*, p. 114.

<sup>[3]</sup> The portions of the title and s. 1 which are printed in italics are now obsolete. Ben. Regs. 44 of 1793 and 50 of 1795 were finally repealed by Act 29 of 1871.

<sup>[4]</sup> The words “and Benares,” in s. 1, which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.



## (Sec 3.)

**3. First**—(Repeal of ss 3 and 4 of Regs 11 of 1793 and 50 of 1795) Rep by the Repealing Act 1871 (16 of 1871)

Rule for  
apportioning  
assessment  
on shares  
of estates  
when  
divided

*Second* When a division of a joint estate shall be made on the application of the proprietors or pursuant to the decree of a Court of Justice the fixed public revenue assessed upon the whole estate shall be apportioned on the several shares agreeably to the principle prescribed in section 10 Regulation 1 1793, [1] \* \* \* [2] without regard to any engagements that may subsist between the proprietors and their dependent *talukdars* (excepting the dependent *talukdars* described in section 7, Regulation 11, 1793,) [3] under-farmers or *ranyats*

But all leases made in conformity to sections 2 and 3 Regulation 5, 1812, [4] and section 2 of this Regulation shall remain in full force, notwithstanding the division of a joint estate among the sharers, or the sale of the whole or a portion of any estate in satisfaction of a decree of Court, or the devolving of the same by inheritance, or the private transfer thereof by sale, gift or otherwise

[1] The Bengal Permanent Settlement Regulation, 1793 s 10 is printed *ante*, p 8

[2] The words and figures "and s 7, Regulation 27, 1795," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted

[3] Ben Reg 44 of 1793 was repealed by Act 29 of 1871, but the reference in the text is saved by s 1 of that Act The description in Reg 44 of 1793, s 7, is as follows —

such dependent *talukdars* as were exempted from any increase of assessment at the forming of the Decennial Settlement in virtue of the prohibition contained in clause *First*, s 51, Regulation 8, 1793 "

s 51, clause *First*, of Ben Reg 8 of 1793, is printed *ante*, p 35

[4] The Bengal Land revenue Sales Regulation, 1812 It is printed, *ante*, p 114

BENGAL REGULATION 29 OF 1814.

(THE BENGAL GHATWALI LANDS REGULATION, 1814.)<sup>[1]</sup>

(3rd December, 1814.)

**A Regulation for the settlement of certain mahals in the district of Birbhum, usually denominated the Ghatwali mahals.**

**1.** WHEREAS the lands held by the class of persons denominated *ghatwals*, in the district of Birbhum, form a peculiar tenure to which the provisions of the existing Regulations are not expressly applicable;

And whereas every ground exists to believe that, according to the former usages and constitution of the country, this class of persons are entitled to hold their lands, generation after generation, in perpetuity, subject nevertheless to the payment of a fixed and established rent to the *zamindar* of Birbhum and to the performance of certain duties for the maintenance of the public peace and support of the police;

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[<sup>1</sup>] **SHORT TITLE.**—This short title was given by the Amending Act, 1903 (1 of 1903), Sch. I—see *post*, p. 619.

**LOCAL EXTENT.**—This Regulation was passed only for the district of Birbhum—see the title and ss. 1 and 2.

The first paragraph of s. 5 has, however, since been extended (in a restricted and modified form), by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 5, to Pargana Barabhum in the district of Manbhum, in the Chota Nagpur Division—see the foot-note to s. 5, on p. 125, *post*.

The Regulation is also in force in the Sonthal Parganas—see Vol. IV, Part IV.

**APPLICATION OF RURAL POLICE REGULATION.**—The word “Zamindar”, as used in the Sonthal Parganas Rural Police Regulation, 1900 (3 of 1900), includes the *Ghatwals* of Tupah Surath, Deoghar, whose tenures are subject to the provisions of Regulation 29 of 1914—see the Sonthal Parganas Rural Police Regulation, 1910 (4 of 1910), s. 3 (c), *post*, p. 755.

As to the formation of circles, for the purposes of Regulation 3 of 1900, in *Ghatwals* subject to Regulation 29 of 1814, see the Sonthal Parganas Rural Police Regulation, 1910, s. 4, *post*, p. 756.

**LEASES.**—As to power of holders of *ghatwali* lands to grant leases, see the Bengal Ghatwali Lands Act, 1859 (5 of 1859), *post*, p. 345.

**NON-APPLICATION OF BENGAL TENANCY ACT.**—The Bengal Tenancy Act, 1885 (8 of 1885), does not affect any incident of a *ghatwali* tenure—see s. 181 of that Act, *post*, p. 498.

(Secs. 2-5.)

And whereas the rents payable by those tenants have been recently adjusted, after a full and minute inquiry made by the proper officers in the Revenue Department;

And whereas it is essential to give stability to the arrangements now established among the *ghatwals*, the following rules have been adopted, to be in force from the period of their promulgation in the district of Birbhum.

*Ghatwals* in Birbhum, and their descendants in perpetuity to be maintained in possession of lands, and not liable to enhancement of rent.

2. A settlement having lately been made on the part of the Government with the *ghatwals* in the district of Birbhum, it is hereby declared that they and their descendants in perpetuity shall be maintained in possession of the lands so long as they shall respectively pay the revenue at present assessed upon them, and that they shall not be liable to any enhancement of rent so long as they shall punctually discharge the same and fulfil the other obligations of their tenure.

*Ghatwali* lands to form part of *zamindari* of Birbhum. Rents how paid.

3. The *ghatwali* lands shall be considered, as at present, to form a part of the *zamindari* of Birbhum; but the rents of *ghatwals* shall be paid direct to the Assistant Collector stationed at Suri, or to such other public officer as the Board of Revenue<sup>[1]</sup> \* \* \*<sup>[2]</sup> may direct to receive the rents.

Amount payable to *zamindar* of Birbhum.

4. The difference between the amount of the revenue assessed on the *ghatwals* and the fixed assessment of revenue in this portion of the *zamindari* of Birbhum payable to Government shall be paid to the *zamindar* of Birbhum and his heirs and successors, in perpetuity.

Disposal of tenure of *ghatwals* failing to discharge rents.

5. Should any of the *ghatwals* at any time fail to discharge their stipulated rents, it shall be competent for the<sup>[3]</sup> [Local Government] to cause the *ghatwali* tenure of such defaulter to be sold by public sale in satisfaction of the arrears due from him, in like manner, and under the same rules, as lands held immediately of Government, or to make over the tenure of such defaulter to any person whom the<sup>[3]</sup> [Local Government] may approve on the condition of making good the arrear due; or

to transfer it by grants assessed with the same revenue, or with an increased or reduced assessment, as to the Government may appear meet; or

[1] As to the present constitution and powers of the Board of Revenue see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[2] The words "with the sanction of the Governor General in Council," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[3] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor--see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 632.

(Sec. 5.)

to dispose of it in such other form and manner as shall be judged by the [1] [Local Government] proper.[2]

Should any increase of revenue be obtained from the operation of any arrangements of the nature above described, such increase shall be paid in conformity to the tenor of the preceding article to the *zamindar* of Birbhum, his heirs and successors.

[1] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 632.

[2] This paragraph has been extended to pargana Barabhum by the following notification :—

No. 1246-L. R., dated the 7th March 1903, published in the *Gazette of India* of 14th idem, Part I, p. 191, and in the *Calcutta Gazette* of 11th idem, Part I, p. 313.—  
"In exercise of the powers conferred by ss. 5 and 5A of the Scheduled Districts Act, 1874, and with the previous sanction of the Governor General in Council, the Lieutenant-Governor is pleased to extend to pargana Barabhum in the district of Manbhum the first paragraph of s. 5 of Bengal Regulation 29 of 1814 (a regulation for the settlement of certain Mahals in the District of Birbhum, usually denominated the Ghatwali Mahals), in the following restricted and modified form :—

Paragraph 1 of s. 5 of Bengal Regulation 29 of 1814, as extended to pargana Barabhum.

Should any of the Ghatwals at any time fail to pay the amount of any decree obtained against him in a competent Court for the rent of his tenure, or for any sum payable in respect of his tenure under the Cess Act, 1880, it shall be competent for the Commissioner, if written application is made to him by the decree-holder within three years from the date of the decree, or (if the decree was made before the date of this notification, and the execution thereof has not at that date been barred by limitation) within six months from the date of this notification, either

to make over the tenure of such defaulter to any person whom the Commissioner may approve, on the condition of his paying the amount of the decree, and also on the same conditions in respect to the payment in future of rent and cesses and the performance of the duties for the maintenance of the public peace to which the defaulter was liable at the time when the tenure was so made over; or

to cause the tenure of such defaulter to be sold by public auction, in satisfaction of the arrears due from him under the procedure prescribed in Act 11 of 1859 (an Act to improve the law relating to sales of land for arrears of revenue in the Lower Provinces under the Bengal Presidency), and subject to all provisions of that Act so far as they can be made applicable, and subject also to the same conditions in respect to the payment in future of rent and cesses and the performance of the duties for the maintenance of the public peace to which the defaulter was liable at the time of the sale; or

to dispose of the case in such manner as shall be judged by the Commissioner proper."

(Secs. 6-8.)

Exception.

6. The above rule is not to preclude claims to rent-free lands, or pensions held by the *kánungos* under grants made to the individuals for reasons unconnected with the office of *kánungo*.

Duties of *kánungos*.

7. The *kánungos* are to execute the duties herein specified—

*First*.—To keep a counterpart *jama-wasil-báki*, or account of the collections made by the *tahsildars* or by *sazáwals* from lands held *khas* or under attachment.

*Second*.—To keep an account of all lands held under rent-free tenures, whether the grants be hereditary or otherwise, and to report to the Collector<sup>[1]</sup> all escheats of such lands to Government.

*Third*.—To keep a list of the *patwáris* in each village, and a register of *pattas* granted by the landholders to their under-tenants.

*Fourth*.—To keep a register of all transfers of estates by sale (public or private), mortgage, lease or otherwise, and to attest such transfers at the request of the parties, without fee or gratuity, with their official signatures.

*Fifth*.—To compile information regarding local boundaries of *parganas* and estates; the number and names of villages, articles of produce, rates of rent, rules and customs established in each *pargana*; and to furnish at the requisition of the Courts of Justice and of the Collectors<sup>[1]</sup> all local information within their cognizance.

*Sixth*.—To assist at all admeasurements of land, whether undertaken by the officers of Government in conformity to the Regulations, or by the landholders or *raiyyats*, and to record the same.

*Seventh*.—To prepare and keep the information and accounts directed in this or any future Regulation, in such manner and form as may be from time to time prescribed by the Board of Revenue.<sup>[2]</sup>

*Eighth*.—To report to the Collector<sup>[1]</sup> the death of a *málguzár* and the name of his heirs, and to keep a register of all successions to lands.

*Kánungos*  
not to hold  
farms or  
become  
sureties.

8. Persons who may be selected to fill the office of *kánungo* are hereby prohibited from holding farms, or from becoming sureties for farmers or *zamindars*, within the local limits of their official duties.

[1] As to the exercise of functions of Collector under this Regulation by other officers, see—

the Bengal *Kánungos* and *Patwáris* Regulation, 1819 (1 of 1819), s. 4 (5), *post*, p. 156, and

the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

[2] As to the present constitution and powers of the Board of Revenue see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

## (Secs. 9-12.)

9. On the death, resignation or removal of a *kanungo* the records of the office are to be made over to his successor, and the Magistrate of the *zila* is enjoined, on the application of the Collector,<sup>[1]</sup> to interpose his authority, in all cases in which it may be necessary to enforce the surrender of such records. Transfer of records to successors.

10. The refusal or manifest evasion of any person in possession of the records mentioned in the preceding section to deliver them up on the requisition of the Magistrate is hereby declared to subject the party so offending, on proof thereof, to the penalties prescribed <sup>^</sup> \*<sup>[2]</sup> for resistance to the process of the Magistrate. Punishment on refusal to give them up.

11. Nothing contained in this Regulation shall be construed to preclude the<sup>[3]</sup> [Local Government] from exercising the right of decreasing the number of *kánungos*; of abolishing the office in any *pargana* where from local circumstances the duty may be performed by less than two persons or by the *kánungos* in a neighbouring *pargana*; nor from exercising the right to increase the number of *kánungos* in any *pargana* where from circumstances more than two may be found necessary. Right of Government to vary number of *kanungos*.

12. The Collectors<sup>[1]</sup> of *Cuttack* and *Hijli*<sup>[4]</sup> are enjoined to report to Government, through the usual channel, all instances wherein they may deem it expedient to increase or diminish the number of *kanungos* in a *pargana* with their reasons at large for such opinion. Collectors to report when variations are necessary.

[1] As to the exercise of functions of the Collector under this Regulation by other officers, *see*—

the Bengal *Kánungos* and *Patwáris* Regulation, 1819 (1 of 1819), s. 4 (3), *post*, p. 156, and

the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

[2] The words “by the Regulations,” which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[3] The words “Governor General in Council,” in the original text, are to be read as if the words “Local Government” were substituted therefor—*see* the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 632.

[4] The words printed in italics are obsolete, this Regulation having been extended to the whole of the former Province of Bengal by the Bengal *Kánungos* and *Patwáris* Regulation, 1819 (1 of 1819), s. 4 (7), *post* p. 156.

BENGAL REGULATION 12 OF 1817.

(THE BENGAL PATWARIS REGULATION, 1817.)

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## BENGAL REGULATION 12 OF 1817.

(THE BENGAL PATWARIS REGULATION, 1817.)<sup>[1]</sup>

(12th August, 1817.)

### A Regulation for securing the better administration of the office of *patwari* \* \* \*.<sup>[2]</sup>

1. The existing Regulations regarding *patwāris* have been found to be in many respects defective, and great difficulties and delays have consequently been experienced in the division of estates, the adjustment of the revenue to be assessed on their respective shares, the investigation of summary and other suits for rents, the decision of disputes relating to the limits of estates and villages, and the execution of decrees of the Courts of Judicature, in regard to the possession and property of land :

the reform of the office appears therefore to be an object of the highest importance : \* \* \* .<sup>[2]</sup>

The following rules have therefore been enacted \* \* \* \* .<sup>[3]</sup>

2. (*Repeal of enactments relating to appointment of patwāris.*)  
*Rep. by the Repealing Act, 1874 (16 of 1874).*

3. Every village paying, or liable to pay, the public revenue shall have a separate *patwāri*, except in cases where the Board of Revenue<sup>[4]</sup> or other authority exercising the power of that Board shall, in consideration of former usage or other sufficient cause, authorise one *patwāri* to do the duty of two or more villages, or direct two or more *patwāris* to be established in a single village.

4 to 6. (*Every village to have a separate patwāri ; continuation of patwāris now in office ; procedure in nominating patwāris.*) *Rep. by the Repealing Act, 1874 (16 of 1874).*

<sup>[1]</sup> SHORT TITLE.—This short title was given by the Amending Act, 1903 (1 of 1903), Sch. I—see *post*, p. 619.

LOCAL EXTENT.—This Regulation was extended to the former Province of Bengal generally by the Bengal Kánungos and Patwāris Regulation, 1819 (1 of 1819), s. 4 (2), *post*, p. 156; but it may be suspended in any *mdhāl*—see *ibid*, s. 4 (4). Power to suspend the operation of the Regulation temporarily in parts of the Province was given by Bengal Regulation, 1819 (1 of 1819), s. 4 (6), *post*, p. 157. It is in force in the Sonthal Parganas, see Vol. IV, Part IV.

Its application is barred in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 768.

<sup>[2]</sup> The words in the title and s. 1 as to local extent, which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

<sup>[3]</sup> The clause in s. 1 as to commencement and local extent, which was repealed by *ibid*, is omitted.

<sup>[4]</sup> As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.



(Secs. 7-9.)

Vacancies  
how filled  
up.

7. Whenever a vacancy may occur in the office of *patwári*, such vacancy shall be filled on the nomination of the *zamindar* or other landholder or farmer, engaging with Government for the public revenue, who is hereby enjoined to report such nomination to the Collector<sup>[1]</sup> of the district within one month after the vacancy has taken place :

Provided, however, that in such nomination the *zamindar* or other landholder or farmer shall be generally guided by the custom which may heretofore have prevailed in the village in respect to the succession of *patwáris*, and shall not deviate therefrom without previously obtaining the sanction of the Collector,<sup>[1]</sup> and it shall be the duty of the Collectors<sup>[1]</sup> carefully to see that this rule is observed, and particularly that the just rights of the inferior *pattidárs*, or sharers in joint undivided estates, and of dependent *talukdars*, or other under-tenants of the lands, as connected with the appointment of *patwáris*, are duly maintained.

Procedure of  
Collector on  
receiving  
nomination  
of *patwári*.

8. On receiving the report of the nomination of a *patwári*, as directed to be made in the foregoing section, the Collector<sup>[1]</sup> is to insert the name of the party in the register of *patwáris* for his district, unless he shall see good and sufficient ground to object to the person so nominated as disqualified for the office, in which case he is immediately to submit his objections to the Board of Revenue<sup>[2]</sup>, \* \* \* <sup>[3]</sup> and the Board <sup>[2]</sup>\* <sup>[4]</sup> will decide whether the *zamindar* or farmer shall be called upon to nominate another person, or pass such other order on the question as may appear just and right.

Rules  
regarding  
*patwáris* in  
joint and  
undivided  
estates.

9. The proprietors of joint and undivided estates engaging jointly for the public revenue shall be considered jointly and severally bound \* \* \* <sup>[5]</sup> to nominate a *patwári* in the mode prescribed in \* \* \* <sup>[6]</sup> this Regulation, or to show sufficient cause for their failing to do so.

[1] As to the exercise of functions of Collector under this Regulation by other officers, see—

the Bengal Kánungos and Patwáris Regulation, 1819 (1 of 1819), s. 4 (3), *post*, p. 156, and

the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

[2] As to the present constitution and powers of the Board of Revenue see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[3] The words "the Board of Commissioners, or the Commissioner in Bihar and Benares, as the case may be," which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

[4] The words "or Commissioner," which were repealed by *ibid*, are omitted.

[5] The words and figures "to furnish the Collector with the statement required in s. 4 and," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[6] The words and figures "ss. 5 and 7 of ", which were repealed by *ibid*, are omitted.

(Secs. 10-13.)

10. In estates held *khas*, and in estates under the superintendence of the Court of Wards, the *patwari* shall be appointed by the Collector. [1] Rules as to *patwaris* in *khas* estates.

[2] 11. Should any *zamindar* or other proprietor or farmer refuse or omit \* \* \* [3] to nominate a *patwari* in the cases provided for in \* \* \* [4] this Regulation within the time prescribed \* \* \* [5], and shall fail to show good cause for such neglect or failure, it shall be competent to the Collector, [1] with the approval of the Board of Revenue, [6] \* \* \* [7] to levy a daily fine upon him until a *patwari* is nominated, or, with such approval, himself to nominate a qualified person for the office. Penalty in cases of refusal or omission to comply with rules.

12. Whenever a *zamindar* or farmer engaging with Government for the public revenue may wish to remove a *patwari* from office, he is to state his reasons for so doing to the Collector [1] of the district, who, if they appear good and sufficient, will authorize the removal of the *patwari*, but not otherwise. Procedure of *zamindars* wishing to remove *patwari*.

13. Any *zamindar* or other landholder or farmer of land removing a *patwari* from office without the authority of the Collector [1] obtained in the mode prescribed in the preceding section shall be punished by a fine not exceeding fifty rupees for the first offence and one hundred rupees for the second offence; [8] Penalties for removing *patwari* without authority.

and if it should appear, on investigation by the Collector, [1] that the removal was unjust and without sufficient cause, the said *zamindar* or other landholder or farmer of land shall be further subject to a daily fine, with the approbation of the Board of Revenue [6] \* \* \* [9] but not otherwise, until the *patwari* be restored.

[1] As to the exercise of functions of Collector under this Regulation by other officers, see—

the Bengal Kánungos and Patwáris Regulation, 1819 (1 of 1819), s. 4 (3), *post*, p. 156, and

the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

[2] S. 11 is explained by the Bengal Kánungos and Patwáris Regulation, 1819 (1 of 1819), s. 6, *post*, p. 158.

[3] The words and figures "to furnish the statement required by section 4 or," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[4] The words and figures "ss. 5 and 7 of," which were repealed by *ibid*, are omitted.

[5] The words "in those sections," which were repealed by *ibid*, are omitted.

[6] As to the present constitution and powers of the Board of Revenue see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[7] The words "the Board of Commissioners, or the Commissioner in Bihár and Benares, as the case may be," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[8] As to the extension to other cases of the penalties prescribed in s. 13, see the Bengal Kánungos and Patwáris Regulation, 1819 (1 of 1819), s. 7, *post*, p. 158.

[9] The words "the Board of Commissioners, or the Commissioner in Bihar and Benares," in ss. 13, 15 and 16, respectively which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

(Secs. 14-18.)

Patwaris  
removable  
on represent-  
ation  
of under-  
tenants.

14. Whenever the inferior *pattidars*, or sharers, or the *raiyats* or under-tenants of a village may petition the Collector<sup>[1]</sup> for the removal of the *patwari*, the Collector<sup>[1]</sup> shall direct such removal, and shall call upon the *zamindar* or other landholder or farmer of land engaging with Government for the public revenue to appoint another *patwari* :

Provided the reasons adduced for praying such removal appear to the Collector<sup>[1]</sup> good and sufficient, but not otherwise.

Procedure of  
Collector  
desiring to  
remove  
*patwaris*.

15. Whenever a Collector<sup>[1]</sup> shall see ground to desire the removal of a *patwari* for neglect of duty or other sufficient cause, he is to state his reasons to the Board of Revenue,<sup>[2]</sup> \* \* \*<sup>[3]</sup> [as the case may be], who will authorize the removal or not, as may seem proper.

Duties of  
*patwaris*.

16. The duties of the *patwari* shall be—

*First*.—To keep such registers and accounts relating to the village or villages to which he is appointed, in such manner and form as has heretofore been the custom, or in such other mode as may be hereafter prescribed by the Board of Revenue,<sup>[2]</sup> \* \* \*<sup>[3]</sup> together with such further registers and accounts as may be directed by those authorities respectively.

*Second*.—To prepare and deliver to the *kánungo* of the *pargana*, at the expiration of every six months, a complete copy of the aforesaid accounts showing distinctly the produce of the *kharif* and *rabi* harvests

*Third*.—To perform all other duties and services which it has been customary for him to execute.

Transmit-  
ting and  
recording  
*patwaris*'  
accounts.

17. The Board of Revenue<sup>[2]</sup> \* \* \*<sup>[4]</sup> will determine on the mode in which the accounts rendered by the *patwari* to the *kánungo* shall be brought forward by the latter, and recorded in the office of the Collectors.<sup>[1]</sup>

Payment of  
*patwaris*,  
and  
adjustment  
of their  
allowances in  
certain  
cases

18. The *patwari* is to be paid hereafter in the same mode as he is now paid, whether in money, or in grain, or in land, or in any other legal manner whatsoever; but it shall be the duty of the several Collectors<sup>[1]</sup> to complete an account of the mode in which such payment

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[1] As to the exercise of functions of Collector under this Regulation by other officers, see—

the Bengal Kánungos and Patwaris Regulation, 1819 (1 of 1819), s. 4 (3), *post*, p. 156, and

the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

[2] As to the present constitution and powers of the Board of Revenue see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[3] The words "the Board of Commissioners, or the Commissioner in Bihar and Benares," in ss. 13, 15 and 16, respectively, which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

[4] The words "Board of Commissioners, or Commissioner in Bihar and Benares," in s. 17, which were repealed by *ibid*, are omitted.

## (Secs. 19-22.)

is made in the different *parganas* or other local divisions of their districts, and to submit the result of their researches to the Board of Revenue or other authority<sup>[1]</sup> exercising the powers of that Board; and it shall be competent to the Board of Revenue or other authority<sup>[1]</sup> aforesaid, with the sanction of the<sup>[2]</sup> [Local Government], to increase or reduce the amount of remuneration paid to the *patwáris* and to alter or modify the mode of its payment, in any case in which sufficient cause for the adoption of such a measure shall exist.

19. Where no *patwári* has hitherto been appointed, the amount of the remuneration to the *patwári* who may be appointed under this Regulation, and the mode of its payment, shall be regulated by the Collector,<sup>[3]</sup> with reference to the usage of the adjoining villages.

Remuneration of *patwáris* in villages where none are now appointed. Procedure on refusal of payment of established remuneration to *patwáris*

20. If the remuneration, which a *patwári* has heretofore regularly received or which may be assigned to him by the Collector<sup>[3]</sup> or other competent revenue authority, be denied to him by the parties who have hitherto paid it, or who may have been directed to pay it by the said authority, he is at liberty to complain against the person so withholding his dues to the Collector,<sup>[3]</sup> who will proceed to an immediate investigation of the facts, and decide according to the usage of the village; and the Collector<sup>[3]</sup> is hereby authorized to compel payment of the amount due to the *patwári*, and to fine the offending party according to his situation and circumstances in life:

Provided always that the fine in no instance exceed fifty rupees.

Local usage of *pargana* to be reported by *pargana kánungo*.

21. In all cases in which the decision of the Collector<sup>[3]</sup> is to be governed by usage, it shall be made an invariable rule to insert in the original proceedings on the case the attested report of the *kánungos* of the *pargana*, as to the custom or usage in reference.

22. Collectors<sup>[3]</sup> of land-revenue are hereby empowered to summon the *patwári* of any village or villages within their respective districts, whenever there may be occasion for his attendance on any matter connected with the duties of his office, and to require him to produce all accounts relating to the lands, produce, rents, collections and charges of the village or villages, the accounts of which may be kept by him, and

Power to summon *patwári* and to examine him on oath to the truth of his accounts.

[1] As to the present constitution and powers of the Board of Revenue see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[2] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 632.

[3] As to the exercise of functions of the Collector under this Regulation by other officers, see—

the Bengal Kánungos and Patwáris Regulation, 1819 (1 of 1819), s. 4 (*§*), *post*, p. 156, and

the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822); s. 35, *post*, p. 236.

(Secs. 23-25.)

to examine him on oath<sup>[1]</sup> to the truth of such accounts, and on any other matters relating to such accounts, or regarding the lands, produce, rents, collections and charges of the village or villages to which the said *patwāri* may belong.

When a Collector<sup>[2]</sup> shall require the attendance of a *patwāri* for the purpose above stated, he is to serve such *patwāri* with a written notice under his official seal and signature, stating the purpose for which his attendance is required, and the papers (if any) which he is to bring with him.

Power to  
compel  
*patwāris* to  
produce  
their  
accounts.

**23.** If any *patwāri* shall neglect or omit to produce his original accounts on the requisition of a Collector,<sup>[2]</sup> or to give his evidence respecting them, the Collector<sup>[2]</sup> is hereby authorized and empowered to cause the said *patwāri* to be apprehended, and to order him to be confined in the *Diwani* jail of the district until he produce his accounts, or show sufficient cause for not producing them.

In such cases the *patwāri* shall be sent by the Collector<sup>[2]</sup> with a *rubakari* to the Judge of the \* \*<sup>[3]</sup> *zila*, stating the purport of the order passed against him; and the Judge shall, on those grounds, commit the *patwāri* to jail, and detain him until he produce the accounts, or until the Collector<sup>[2]</sup> applies for his release.

*Patwāris* to  
produce  
accounts  
when  
required  
by  
Courts of  
Justice.

**24.** In like manner *patwāris* shall produce all accounts relating to the lands, produce, collections and charges of the village or villages the accounts of which may be kept by them respectively, and furnish every information and explanation that may be required regarding them, whenever they may be required by any Court of Justice, in any suit that may be depending before the Court;

and if any *patwāri* shall neglect or omit to attend with his accounts when required, for the adjustment of any matter or dispute depending in Court, the Courts are authorized to order such *patwāri* to be committed to close custody until he produce the accounts, or show sufficient cause for not having produced them.

Power to  
require  
attendance  
of *patwāris*

**[4]25.** In any case in which a Collector<sup>[2]</sup> of land-revenue shall have occasion to depute an officer to examine the accounts of any village

[1] As to oaths and affirmations, see the Indian Oaths Act, 1873 (10 of 1873), in General Acts, 1873-86, Ed. 1928, p. 7.

[2] As to the exercise of functions of the Collector under this Regulation by other officers, see—

the Bengal Kánungos and Patwāris Regulation, 1819 (1 of 1819), s. 4 (3), *post*, p. 156, and

the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

[3] The words "City or," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[4] As to the conferment, on Native officers making inquiries preparatory to settlement, of the powers provided by s. 25, see the Bengal Land-revenue Settlement Regulation 1822 (7 of 1822), s. 24, *post*, p. 230.

(Secs. 26-29.)

or villages, he is authorized to require the *patwāris* to attend such officer, and the Collector<sup>[1]</sup> is further empowered to grant to such officer a commission to swear<sup>[2]</sup> the several *patwāris* whose accounts are to be inspected, inserting in the commission the name of each *patwāri* to be sworn ;

on officers  
deputed to  
examine  
village  
accounts and  
to grant  
commission  
to swear  
*patwaris*.

and if any such *patwari* shall neglect or refuse to attend such officer with his accounts, or to give his evidence respecting them, when duly required to do so by a written notice from the Collector,<sup>[1]</sup> the Collector<sup>[1]</sup> is hereby authorized and empowered to proceed against such *patwāri* in the same mode as if he had refused or neglected to attend or to give his evidence before the Collector<sup>[1]</sup> himself.

**26.** (*Patwāris giving false depositions, when guilty of perjury.*) Rep. by the Repealing Act, 1876 (12 of 1876).

**27.** \* \* \*<sup>[3]</sup> any *patwāri* who shall alter, fabricate, falsify or mutilate the accounts of the village to which he belongs, or shall furnish to the *kánungo* or Collector<sup>[1]</sup> false, fabricated or mutilated copies of those accounts, shall be held and considered guilty of forgery, and shall be liable, on conviction, \* \* \*<sup>[4]</sup> to the penalties which are or may be prescribed for that offence \* \* \*<sup>[5]</sup> ;

Punishment  
for *patwāris*  
falsifying  
or mutilat-  
ing village-  
accounts.

and any person who shall cause or procure any such forgery shall be liable to the same penalties as those convicted of having actually committed the offence.

**28.** (*Existing rules requiring the attendance of proprietors, etc., of lands sold or divided, declared still in force.*) Rep. by the Repealing Act, 1876 (12 of 1876).

**29.** \* \* \*<sup>[3]</sup> whenever an estate or the portion of an estate may be directed to be disposed of at public sale, or may be transferred by the private act of the proprietor or proprietors, or when an estate may be divided pursuant to a decree of a Court of Judicature or at the request of one or more of the proprietors, or when an estate or portion of an estate may be under attachment, the Collector<sup>[1]</sup> shall be authorized

Power to  
require  
attendance of  
Native  
agents of  
proprietors  
whose  
estates are  
to be sold,  
transferred

[1] As to the exercise of functions of the Collectors under this Regulation by other officers, see—

the Bengal Kánungos and Patwāris Regulation, 1819, (1 of 1819), s. 4 (3), *post*, p. 156, and  
the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

[2] As to oaths and affirmations, see the Indian Oaths Act, 1873 (10 of 1873), in General Acts, 1873-86, Ed. 1928, p. 7.

[3] The words "In like manner" in ss. 27 and 29, which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[4] The words "before a Court of Circuit," in s. 27, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[5] The words "in the Regulations," which were repealed by *ibid*, are omitted.

(Secs. 30-31.)

or divided  
and to cause  
them to be  
examined  
on oath  
touching  
accounts.

to require the attendance of all descriptions of Native agents employed by the proprietors or farmers of such estates or farms in the management of their lands, or keeping the accounts relating to them, and to examine or to cause them to be examined on oath<sup>[1]</sup> touching such accounts, in the same manner as he is authorized by sections 22 and 25 of this Regulation to require the attendance and to take or cause to be taken the examination of *patwáris*;

and if such agents shall refuse or neglect to attend the Collector<sup>[2]</sup> or his officer, when their attendance may be duly required, or to give their evidence, the Collector<sup>[2]</sup> is authorized and empowered to proceed against them in the same manner as is prescribed in the case of *patwáris* refusing or neglecting to attend.

Section 27  
applied to  
Native  
agents

**30.** \* \* \*<sup>[3]</sup> the rules contained in sections \* \* \*<sup>[4]</sup> 27 shall be held and considered applicable to all such Native agents employed by proprietors or farmers of land, in the management of their estates or farms, or in keeping the accounts relating to them.

Procedure  
in cases  
not provid-  
ed for  
when  
attendance  
of pro-  
prietors or  
farmers  
with  
accounts is  
required.

**31.** Whenever a Collector of land-revenue, or other officer vested with the powers of a Collector<sup>[2]</sup> may in any case connected with his public duty, but not provided for in this or any other Regulation in force, have occasion to require the attendance of a *zamindar* or other proprietor or farmer of lands, or of the *gumáshta* or other officer or agent of such proprietor or farmer, with the accounts of such lands, he shall report the circumstances to the Board of Revenue<sup>[5]</sup> \* \* \*<sup>[6]</sup> and the [7][Board is] hereby empowered to grant authority to the Collector<sup>[2]</sup> or other officer aforesaid, to require the attendance of the proprietor or farmer, or of the *gumáshta* or other officer or agent, with all accounts relating to the lands in their possession or management.

[1] As to oaths and affirmations, see the Indian Oaths Act, 1873 (10 of 1873), in General Acts, 1873-86, Ed. 1928, p. 7.

[2] As to the exercise of functions of the Collectors under this Regulation by other officers, see—

the Bengal Kánungos and Patwáris Regulation, 1819 (1 of 1819), s. 4 (3), *post*, p. 156, and

the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

[3] The words "Provided further that," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[4] S. 30, so far as it relates to s. 26, having been repealed by the Repealing Act, 1876 (12 of 1876), the figures and word "26 and" have been omitted.

[5] As to the present constitution and powers of the Board of Revenue see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[6] The words "the Board of Commissioners, or the Commissioner in Bihár and Benares, according as he may be subject to one or the other of those authorities," in s. 31, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[7] The words "Board is," in s. 31, were substituted for the words "Boards are" by the Amending Act, 1891 (12 of 1891). The words "and Commissioner aforesaid," which occurred after "Boards," were repealed by the Repealing Act, 1874 (16 of 1874), and are omitted.

## (Secs. 32-33.)

**32.** A written notice shall in such cases be issued by the Collector<sup>[1]</sup> or other officer to the party whose attendance is required, stating the purpose for which he is summoned, and the papers (if any) which he is to bring with him ;

and, if the proprietor or farmer shall omit or refuse to attend, or cause his officer or agent to attend, by the time prescribed in the Collector's<sup>[1]</sup> requisition, with the accounts and information required, the Board of Revenue<sup>[2]</sup> \* \* \*<sup>[3]</sup> are authorized and empowered to impose upon him such daily fine,<sup>[4]</sup> to be payable daily until he complies with the Collector's<sup>[1]</sup> requisition, as they may think adequate to his situation and circumstances in life ; \* \* \* \*<sup>[5]</sup>

The fine \* \* \*<sup>[6]</sup> is to be levied by the same process as is prescribed for the recovery of arrears of revenue.

**33.** In cases in which, from local or other sufficient causes, it may appear impracticable or inexpedient to cause the appointment in any estate or farm of *patwáris*, in the mode prescribed in this Regulation, as, for instance, in certain estates consisting chiefly of hills and forests in the south-western frontier, and in very small *maháls*, the accounts of which are kept by the proprietors themselves, it shall be competent to the Board of Revenue<sup>[2]</sup> \* \* \*<sup>[7]</sup> to suspend its operation in such estates or farms :

Provided, however, that in all such cases the person by whom the village accounts are kept, whether proprietor or farmer, or *gumáshta* or other officer, shall furnish the *kánungo* of the *pargana* with such accounts and statements, as the Collector, with the approval of the Board<sup>[2]</sup> \* \*

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[1] As to the exercise of functions of the Collector under this Regulation by other officers, see—

the Bengal Kánungos and Patwáris Regulation, 1819 (1 of 1819), s. 4 (3), *post*, p. 156, and

the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

[2] As to the present constitution and powers of the Board of Revenue see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[3] The words " Board of Commissioners and Commissioner in Bihár and Benares, as the case may be," in s. 32, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[4] For power of Collector to impose daily fine on proprietors or farmers of land, see also the Bengal Landholders' Attendance Act, 1848 (20 of 1848), *post*, p. 309.

[5] The words " reporting, however, the amount for the information of the Governor General in Council," in s. 32, which were repealed by the Amending Act, 1891 (12 of 1891), are omitted.

[6] The words " when confirmed by Government," which were repealed by *ibid.*, are omitted.

[7] The words " the Board of Commissioners, or the Commissioner in Bihár or Benares, as the case may be," in s. 33, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.



(Secs. 34-36)

[<sup>1</sup>] may direct, and shall be subject to the provisions contained in sections 22, 23, 21, 25 \* \* [<sup>2</sup>] and 27 of this Regulation; and the proprietor or others by whom they may be employed shall likewise be subject to the provisions contained in sections \* \* [<sup>3</sup>] 27.

In what  
cases Courts  
prohibited  
from taking  
cognizance  
of com-  
plaints of  
*patwaris*

**34.** No Court of Judicature shall take cognizance of the complaint of a *patwari* against the landholder, or the tenants of a village, for refusing to remunerate his labours nor shall any Court of Judicature take cognizance of any complaint against a Collector[<sup>4</sup>] for, or on account of, any decision passed by him in virtue of the powers with which he is vested by this Regulation

Appeal to  
Commissioner  
from  
decision or  
order under  
section 20

[<sup>5</sup>]**35.** (1) Any person aggrieved by a decision or order of a Collector[<sup>4</sup>] under section 20 of this Regulation may appeal within six months from the date thereof to the Commissioner of the Division.

(2) The Commissioner may reverse or alter any such decision or order in appeal.

Recovery  
and appro-  
priation of  
fines, etc

**36.** All sums adjudged by the Collector[<sup>4</sup>] in favour of a *patwari* under section 20, and all fines directed to be levied by this Regulation, shall be recoverable by the same processes as arrears of the public revenue, and all such fines, when recovered, shall be carried to the account of Government

[<sup>1</sup>] The words 'or Commissioner,' which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted

[<sup>2</sup>] Section 33, so far as it relates to s 26, having been repealed by the Repealing Act, 1876 (12 of 1876), the figures "26" have here been omitted

[<sup>3</sup>] For the reason stated in foot note [<sup>2</sup>], the figures and word "26 and" have here been omitted

[<sup>4</sup>] As to the exercise of functions of the Collector under this Regulation by other officers, see—

the Bengal Kanungos and Patwaris Regulation, 1819 (1 of 1819), s 4 (3), *post*, p 156, and

the Bengal Land revenue Settlement Regulation, 1822 (7 of 1822), s 35, *post*, p 236

[<sup>5</sup>] This section was substituted for the original s 35 by the Amending Act, 1891 (12 of 1891), Sch 11—*see* General Acts, 1887-97, Ed 1928, p 188

BENGAL REGULATION 20 OF 1817

(THE BENGAL POLICE REGULATION, 1817)

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## BENGAL REGULATION 20 OF 1817.

(THE BENGAL POLICE REGULATION, 1817.)<sup>[1]</sup>

(7th October, 1817.)

**A** Regulation for reducing into one Regulation, with amendments and modifications, the several rules which have been passed for the guidance of *darogas* and other subordinate officers of police ; \* \*.<sup>[2]</sup>

**1 to 8.** (*Preamble ; local extent ; repeals ; appointment and removal of police-officers ; rank and functions of officers on thana establishment ; seal and police accoutrements ; police-officers at outposts ; leave rules ; thana records.*) Rep. by the Repealing Act, 1874 (16 of 1874).

**9.** (*Police returns, etc., to be sent to Magistrates or Superintendents.*) Rep. by Act 17 of 1862.

**10, 11.** (*Daks for official papers ; prohibition of irregular practices.*) Rep. by the Repealing Act, 1874 (16 of 1874).

**12 to 20.** (*Charges not cognizable by police ; duties of officers on receiving charges ; rules for holding inquests ; inquiries in case of heinous offences ; search for stolen property ; duties of Police with regard to coiners, etc. ; in case of riots ; in treatment of prisoners ; in regard to notorious offenders.*) Rep. by Act 17 of 1862.

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[1] **SHORT TITLE.**—This short title was given by the Amending Act, 1903 (1 of 1903), Sch. I—see *post*, p. 620.

**LOCAL EXTENT.**—Ss. 29 and 30 (1), (2), and (5) have been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1873-86. Ed. 1928, p. 48), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

S. 21 is not mentioned in the Laws Local Extent Act, 1874. That section originally extended, like the whole Regulation, to the whole of the former Province of Bengal—see s. 1, which was repealed by the Repealing Act, 1874 (16 of 1874). S. 21 has been repealed in various places—see foot-note [1] on p. 143, *post*.

The unrepealed portions of this Regulation have been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the districts of Hazaribagh, Ranchi, Palamau and Manbhum, and Pargana Dhalbhum, in the district of Singhbhum, in the Chota Nagpur Division, see Vol. IV, Part III.

The application of the Regulation is barred in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 768 ; and the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, *post*, p. 700.

[2] Words in the title which were repealed by the Amending Act, 1891 (12 of 1891), are omitted.

(Sec. 21.)

*Village watchmen.*

[1]21. *First.*—It shall be the duty of the *darogas* of police, under the guidance and instruction of the Magistrate, to prepare and keep up at their *thanas* a complete register of the village watchmen employed within the limits of the authority of the said *darogas* respectively, drawn out after the form no. 6 of the Appendix ;

*Darogas to keep complete list of village watchmen.*

and, upon the death or removal of any of the watchmen, the landholders and other persons to whom the right of nomination to such vacancies shall belong, shall send the names of the persons whom they may appoint to the *daroga* of the jurisdiction, that they may be registered by him as above directed.

*Zamindars or others to nominate successor on occurrence of vacancy.*

*Second.*—The village watchmen are declared subject to the orders of the police *darogas*.

*Village watchmen subject to police darogas.*

*Third.*—Village watchmen who may reside within one *kos* of the *thana* station to which they may be subject shall report daily to the *thana* all occurrences connected with the police which may have happened in their respective villages during the preceding twenty-four hours; village watchmen residing from one to three *kos* distant from the *thana* shall furnish similar reports twice every week; and all other watchmen whose residence may be situated at a greater distance shall report once in every week or fortnight, as they may be specially instructed by the police *daroga* so to do.

*Delivery of reports of watchmen residing at a certain distance from the thanas.*

*Fourth.*—All occurrences reported by the village watchmen shall be recorded by the *muharrirs* in the *thana* diaries, but it shall not be considered necessary to enter in such diaries the reports of watchmen who have no communication to make further than that the peace of their divisions has been undisturbed since their last report.

*Occurrences reported by village watchmen to be entered in thana diaries.*

*Fifth.*—The village watchmen shall apprehend and send to the *daroga* or other police-officer presiding at a *thana* any person who may be taken in the act of committing murder, robbery, house-breaking or theft; also proclaimed offenders, and persons against whom a hue and cry shall have been raised of their having been concerned in a recent criminal offence.

*Proclaimed offenders, etc., to be sent to thana by village watchmen*

It shall further be the special duty of the village watchmen to convey to the *thana* immediate intelligence of any robbers who may have

[1] Section 21 has been repealed as to all villages (and unions) to which the Village Chaukidari Act, 1870 (Ben. Act 6 of 1870), applies and in which a *chaukidar* has been appointed—see Ben. Act 6 of 1870, s. 2, and 1 of 1871, s. 1, in Vol. II of this Code.

This section is repealed in places to which the Chota Nagpur Rural Police Act, 1914 (B. and O. Act 1 of 1914), has been extended—see s. 38 of that Act, in Vol. III of this Code.

## (Sec. 21.)

concealed themselves in their respective villages, or in the adjacent country; and also of any vagrants, or other persons who may be lurking about the country without any ostensible means of subsistence, and who cannot give a satisfactory account of themselves.

It shall likewise be the business of the village watchmen to convey early intimation to the *thana* of all murders, robberies, burglaries, thefts, violent affrays and other heinous offences perpetrated in the villages or places in which they may be stationed.

Receiving  
reports of  
village  
watchmen

*Sixth.*—The report of the village watchmen to the police-officers of the regular establishments shall be made verbally; and they shall not, unless they appear as prosecutors, be sworn to their depositions at the *thanas*, or be detained at the *thanas*, or sent into the Magistrate's Court, unless on account of misconduct, or under the special orders of the Magistrates.

Supervision  
to be  
exercised  
by *daroga*

*Seventh.*—*Darogas* of police shall invariably ascertain and report when making inquiries on the occasion of any robbery, burglary or theft, the conduct of the village-watchmen; and whether they were present at their post, when the offence was perpetrated; if not, the cause of their absence, and whether there may be reason to believe that they were themselves concerned in, or connived at, the commission of the crime.

In the event of any neglect or suspicion of criminality attaching to a village watchman, the *daroga* shall either send the individual to the Magistrate, with a separate report of the grounds of the charge exhibited against him, and evidence to establish the same, or shall forward a report in the first instance and wait the instructions of the Magistrate as the nature of the alleged offence may dictate.

Penalty for  
negligence  
or miscon-  
duct.

In the event of any gross neglect or misconduct in the discharge of his duty as a police-officer being established against a village watchman, he shall be liable to dismissal from his station by order of the Magistrate, independently of any punishment to which he may be subject for specific acts of criminality under the laws and regulations in force.

Watchmen  
not to be  
employed on  
*darogas'*  
private  
concerns

*Eighth.*—The *darogas* or their police-officers are prohibited, under penalty of dismissal from office, from employing the village watchmen on their private concerns, or on any duties unconnected with the police.

In places  
where  
regular  
police-  
estab-  
lish-  
ments are  
stationed,  
watching  
by whom to be  
performed.

*Ninth.*—In those towns and villages where the *darogas* of the *mufassal* police jurisdiction, or the officers of outposts, may be stationed, the duties of watching and patrolling shall be performed conjointly by the regular police-officers and the village watchmen; and private watchmen, entertained by individuals for guarding their habitations, shops or warehouses, shall also afford their assistance, and be considered subject, in the performance of this duty, to the orders of the police *darogas* of the station.

(Secs. 22-29.)

*Tenth.*—On the occurrence of a gang or highway robbery, or any robbery by open violence, murder, burglary or theft, attended with wounding, or any other heinous offence, attended with a violent breach of the peace, the village watchmen shall, to the utmost of their ability, resist and endeavour to apprehend the offenders, and shall require the headmen of the village to collect the inhabitants and to oppose and seize the criminals, or to pursue them if they have fled;

Village watchmen to resist robbers and to require zamindars and headmen to assist in pursuit and apprehension of criminals.

and it shall be incumbent on the inhabitants of the villages through which, or near to which, the pursuit may lie, to afford, on the requisition of the village-watchmen or other police-officer, every practicable assistance towards the apprehension of the robbers or other offenders, and recovery of any property stolen or plundered by them, continuing the pursuit from village to village.

\* \* \* \* \*

**22 to 26.** (*Concurrent jurisdiction of police darogas; prosecutors and witnesses; summons, arrest and bail; resistance or evasion of criminal process.*) Rep. by Act 17 of 1862.

**27.** (*Distrain for arrears of land-rent.*) Rep. by the Bengal Rent Act, 1859 (10 of 1859).

**28.** (*Abkari.*) Rep. by the Repealing Act, 1876 (12 of 1876).  
*Execution of Criminal Process in the*<sup>[2]</sup> (*Opium Department*); and  
*Duties of Darogas relating to*<sup>[3]</sup> (*that Department*).

**29. First.**—In all bailable cases, where it may be necessary, under the provisions of this Regulation, to summon or apprehend any \* \* \* \* \*<sup>[4]</sup> officer or person \* \* \* \* \*<sup>[5]</sup> employed in the \* \* \* \* \*<sup>[6]</sup> Opium Department, the darogas of police shall transmit the summons or

Security for appearance by persons employed under Opium

[1] The concluding sentence of s. 21 (10), declaring liability to penalty, was repealed by the Repealing Act, 1876 (12 of 1876), and is omitted.

[2] The words "*Opium Department*," in the heading prefixed to s. 29, were substituted for the words "*Commercial, Salt and Opium Departments*" by the Amending Act, 1891 (12 of 1891), Sch. II—see General Acts, 1887-97, Ed. 1928, p. 188.

[3] The words "*that Department*" were substituted for the words "*those Departments*" by *ibid.*

[4] The words "weaver, manufacturer, *molungee*, or any," are omitted, as having been repealed—the word "weaver" by the Repealing Act, 1874 (16 of 1874), and the other words by the Repealing Act, 1876 (12 of 1876).

[5] The words "engaged in the provision of the Company's investment or", which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[6] The words "Commercial, Salt or" are omitted, as having been repealed—the word "Commercial" by *ibid.*, and the other words by the Repealing Act, 1876 (12 of 1876).

## (Sec. 29.)

Department  
accused of  
bailable  
offences.

warrant, under a sealed cover, addressed to the \* \* \*<sup>[1]</sup> Opium Agent, or the head Native officer of the *arung*, *kothi* or *chauki*, who will either give, or direct sufficient security to be given, for the due attendance of the party, certifying on the back of the process the manner in which it has been served, and by whom the security has been given, or causing the defendant to accompany the officer bearing the *daroga's* process to the *thana*.

In such  
cases, the  
accused not  
to be forced  
to appear  
till manu-  
facturing  
season.

*Second.*—In cases of bailable nature, in which a person under engagements and employed in the \* \* \*<sup>[2]</sup> Opium Department, may be summoned under the provisions of the preceding clause, during the manufacturing season, the *daroga* of police shall, with the view of preventing unnecessary interruption to the manufacturer, require the party summoned to appear in person or by *vakil*, either during or after the manufacturing season, as the circumstances of the case may dictate, subject to the future orders of the Magistrate, to whom the *daroga* shall in each instance report the reasons which may have influenced him in the exercise of the discretion here vested in him.

Rules for  
serving  
summonses  
on witnesses  
employed  
in the  
Opium  
Department,  
and form  
of their  
recognizance.

*Third.*—Summonses to \* \* \*<sup>[3]</sup> any officers or persons \* \* \*<sup>[4]</sup> employed in the \* \* \*<sup>[2]</sup> Opium Department, to attend as witnesses, shall be served in the manner directed by the preceding clauses of this section; but the \* \* \*<sup>[1]</sup> Opium Agent, or the head Native officer of the *arung*, *kothi* or *chauki* shall, instead of requiring the person summoned to give security, or proceed to the *thana*, take from the witness a recognizance agreeable to the form no. 13 of the Appendix, and shall deliver the same to the officer serving the process.

Warrants  
for offences  
not bailable  
to be  
served

*Fourth.*—If a charge shall be preferred to a police *daroga* against any \* \* \*<sup>[5]</sup> [any] officer or person \* \* \*<sup>[4]</sup> employed in the

[1] The words "Commercial Resident, Salt or" are omitted, as having been repealed—the words "Commercial Resident" by the Repealing Act, 1874 (16 of 1874), and the other words by the Repealing Act, 1876 (12 of 1876).

[2] The words "Commercial, Salt or" are omitted, as having been repealed—the word "Commercial" by the Repealing Act, 1874 (16 of 1874), and the other words by the Repealing Act, 1876 (12 of 1876).

[3] The words "weavers, manufacturers, *molungees*, or to" are omitted, as having been repealed—the word "weavers" by the Repealing Act, 1874 (16 of 1874), and the other words by the Repealing Act, 1876 (12 of 1876).

[4] The words "engaged in the provision of the Company's investment or," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[5] The words "weaver, *molungee*, or any other manufacturer, or" are omitted, as having been repealed—the word "weaver" by the Repealing Act, 1874 (16 of 1874), and the other words by the Repealing Act, 1876 (12 of 1876). The word "any," which follows, has become superfluous.

## (Sec. 29.)

\* \* \* [1] Opium Department, for an offence that is not bailable, and upon there shall appear to the *daroga* of police sufficient ground under the provisions of this Regulation for apprehending the person so charged, the warrant for his apprehension shall require him to attend immediately in person, and shall be executed in the same manner as upon persons not so employed.

persons so employed, as upon others;

But the *daroga*, after securing the offender, is to give notice of his apprehension to the \* \* \* [2] Opium Agent, or to the head officer of the nearest *arang*, *kothi* or *chauki*, as the case may be.

the *daroga* giving notice to Agent.

*Fifth to Eighth.*—(*Darogas to assist in seizure of illicit salt, to give notice of illicit importations, etc., not to seize in first instance of their own authority; penalty for unwarranted seizure.*) Rep. by the Inland Customs Act, 1875 (8 of 1875).

*Ninth.*—All officers of police are strictly enjoined, under pain of dismission from office, to assist in suppressing the illicit cultivation, manufacture, sale, purchase, importation, transportation or possession of opium \* \* \* [3].

Police-officers to suppress illicit cultivation of opium.

*Tenth and Eleventh.*—(*Daroga to report illegal cultivation of poppy; to take security for offender's appearance.*) Rep. by the Repealing Act, 1874 (16 of 1874).

*Twelfth.*—Any police *daroga* who shall knowingly permit the cultivation of the poppy within his jurisdiction, or who shall be convicted of conniving in any respect at the illicit cultivation of the poppy, shall, besides being liable to dismission from office for neglect of duty, be further subject, on conviction before the Magistrate of the *zila*, to the payment of the fine stated in [4] [Act 13 of 1857, section 21,] for whatever quantity of land shall have been so illegally cultivated within his jurisdiction with his knowledge or connivance; and the fine, if not duly paid, shall be commutable to imprisonment for a period not exceeding six months.

Penalty for allowing illicit cultivation

[1] The words "Commercial, Salt or," are omitted as having been repealed—the word "Commercial" by the Repealing Act, 1874 (16 of 1874), and the words "Salt or" by the Repealing Act 1876 (12 of 1876).

[2] The words "Commercial Resident, Salt or" are omitted, as having been repealed—the words "Commercial Resident" by the Repealing Act, 1874 (16 of 1874) and the other words by the Repealing Act, 1876 (12 of 1876).

[3] The words and figures "as required by the provisions of Regulation 13, 1816, which are herein recapitulated for their information and guidance," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[4] The words and figures in square brackets in s. 29 (12) were substituted for the words and figures "section 31, Regulation 13, 1816," by the Amending Act, 1891 (12 of 1891), Sch. II—see General Acts, 1887-97, Ed. 1928, p. 188. Act 13 of 1857 (the Opium Act, 1857) is printed *post*, p. 334.



(Secs. 30-34.)

*Miscellaneous Rules regarding Forts, Armed Men, Military Stores, Dress of Sepoys or Lascars, and \* \*<sup>[1]</sup> Public Roads \* \*<sup>[2]</sup>.*

*Darogas to report circumstances appearing dangerous to public peace.*

**30. First.**—The *darogas* of police shall uniformly report to the Magistrates whenever any individuals within their respective jurisdictions may entertain in their service any extraordinary number of armed men, or may commence building or repairing any fort or *garh*, or collecting together any quantity of arms, ammunition or military stores.

*To apprehend unauthorised persons dressed in uniform of Company's sepoy's.*

**Second.**—The *darogas* of police are required to apprehend and send to the Magistrate \* \* \*<sup>[3]</sup> all persons, not actually in the Honourable Company's<sup>[4]</sup> military service or belonging to persons specially exempted by Government from the operation of the rule contained in the section above-mentioned, who may be found dressed in the uniform of Company's *sepoy's* or *lascars*, or in a dress so nearly approaching to that uniform as to enable the persons wearing it to impose themselves on the country people for *sepoy's* and *lascars*.

**Third.**—(*Police to apprehend certain Native officers, etc., travelling in uniform when not employed on public service.*) Rep. by the Repealing Act, 1874 (16 of 1874).

**Fourth.**—(*Darogas to apprehend persons wearing badges.*) Rep. by Act 18 of 1835.

*Darogas to report encroachment on public roads.*

**Fifth.**—The *darogas* of police shall prevent all encroachments on the public roads, and shall, at the same time, report the circumstances of each case for the information of the Magistrate, and record an abstract of the same in his *thanadari* proceedings.

**Sixth.**—(*Persons dangerously insane to be sent to sadar station.*) Rep. by the Repealing Act, 1874 (16 of 1874).

**31.** (*Judges of Circuit, and Europeans.*) Rep. by the Repealing Act, 1874 (16 of 1874).

**32.** (*Despatches of treasure.*) Rep. by the Repealing Act, 1876 (12 of 1876).

**33, 34.** (*Rules relating generally to landholders, managers of estates, etc.; police of cities.*) Rep. by the Repealing Act, 1874 (16 of 1874).

[1] The word "Badges," in the heading prefixed to s. 30, which was repealed by the Amending Act, 1891 (12 of 1891), is omitted.

[2] The words "and Insane Persons," which were repealed by *ibid.*, are omitted.

[3] The words and figures "in pursuance of section 9, Regulation 11, 1806," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[4] The Government of British India was transferred from the East India Company to the Crown by the Government of India Act, 1858 (21 & 22 Vict., c. 106), s. 1, printed in the Collection of Statutes relating to India, Vol. I, Ed. 1913, p. 272.

(Forms.)

## FORM No. 1

*Repealed by the Amending Act, 1891 (12 of 1891)*

## FORMS Nos. 2 AND 3.

*Repealed by Bengal Regulation 7 of 1829*

## FORMS Nos. 4 AND 5.

*Repealed by the Amending Act, 1891 (12 of 1891).*

## FORM No. 6.[1]

*Register of Village Watchmen, and Alphabetical List of Villages.*

Names of Villages.	Distance and Direction from the Thana station.	Names of the Proprietors or managers, and situated in what Pargana.	Names of the <i>Chaukidars</i> or Watchmen attached to each Village.	Estimated number of Houses in each Village.	Remarks.

## FORM No. 7.

*Repealed by the Amending Act, 1891 (12 of 1891).*

## FORM No. 8.

*Repealed by Bengal Regulation 7 of 1829.*

## FORMS Nos. 9 TO 12.

*Repealed by the Amending Act, 1891 (12 of 1891).*[1] Form no. 6 is referred to in s. 21 (1) *ante*, p. 143.

(Forms.)

FORM No. 13.[<sup>1</sup>]

RECOGNIZANCE TO BE TAKEN FROM A WITNESS.

WHEREAS I \_\_\_\_\_, inhabitant of \_\_\_\_\_  
\_\_\_\_\_, have been named as a witness in the case of \_\_\_\_\_  
\_\_\_\_\_ : I hereby engage to appear before the Magistrate of the *zila*  
(or city) of \_\_\_\_\_, on or before the \_\_\_\_\_, for  
the purpose of giving evidence; in default whereof I hereby further bind myself to pay  
such fine to Government as the Magistrate may judge proper to impose upon me, as well  
as any expense that may be incurred in consequence of my non-attendance, for  
compelling my appearance: in this I will not fail. Dated (*according to the current*  
*era*).

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FORM No. 14.

*Repealed by Bengal Regulation 7 of 1829.*

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FORMS Nos 15 to 21.

*Repealed by the Amending Act, 1891 (12 of 1891)*

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[<sup>1</sup>] Form no. 13 is referred to in s. 29 (3) *ante*, p. 146

## BENGAL REGULATION 3 OF 1818.

(THE BENGAL STATE PRISONERS REGULATION, 1818.)<sup>[1]</sup>

(7th April, 1818.)

### A Regulation for the confinement of State Prisoners.

**1.** Whereas reasons of State, embracing the due maintenance of the **Preamble.** alliances formed by the British Government with foreign Powers, the preservation of tranquillity in the territories of Native Princes entitled to its protection, and the security of the British dominions from foreign hostility and from internal commotion, occasionally render it necessary to place under personal restraint individuals against whom there may not be sufficient ground to institute any judicial proceeding, or when such proceeding may not be adapted to the nature of the case, or may for other reasons be unadvisable or improper;

and whereas it is fit that, in every case of the nature herein referred to, the determination to be taken should proceed immediately from the authority of the Governor General in Council;

and whereas the ends of justice require that, when it may be determined that any person shall be placed under personal restraint, otherwise than in pursuance of some judicial proceeding, the grounds of such

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[1] **SHORT TITLE.**—This short title was given by the Amending Act, 1897 (5 of 1897), Sch. III—see *post*, p. 546.

**LOCAL EXTENT.**—This Regulation was passed for the whole of the former Province of Bengal—see the concluding paragraph of s. 1, *post*, p. 152.

It has been declared by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1873-86, Ed. 1928, p. 48), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Acts, 1874 (14 of 1874), s. 3, to be in force in the districts of Hazaribagh, Ranchi, Palamau and Manbhum, and Pargana Dhalbhum and the Porahat Estate, in the district of Singhbhum in the Chota Nagpur Division—see Vol. IV, Part III.

It has been declared, by notification under the Scheduled Districts Acts, 1874 (14 of 1874), s. 5, to the Kolhan, in the Singhbhum district, in the Chota Nagpur Division—see Vol. IV, Part III.

It is in force in the following de-regulationised tracts in Bihar and Orissa, namely :—the Angul District, see Vol. IV, Part IV; and the Sonthal Parganas—see Vol. IV, Part IV.

It has been declared by the State Prisoners Act, 1858 (3 of 1858), s. 2 (in General Acts, 1834-72, Ed. 1928, p. 100), to be in force within the local limits of the jurisdiction of the High Court.

**PENALTIES.**—For penalties for allowing a State prisoner to escape, for aiding or assisting him to escape, for rescuing, harbouring or concealing him, and for resisting his re-capture, see the Indian Penal Code (45 of 1860), ss. 128 to 130.

**REMOVAL OF STATE PRISONERS.**—For power of the Governor General in Council to remove State prisoners from one place to another, see the State Prisoners Act, 1858 (3 of 1858), s. 5, in General Acts, 1834-72, Ed. 1928, p. 100.

The High Courts' *habeas corpus* section in the Code of Criminal Procedure, 1898 (5 of 1898), does not apply to persons detained under this Regulation—see s. 491 (3) of the Code.

## (Sec. 2.)

determination should from time to time come under revision, and the person affected thereby should at all times be allowed freely to bring to the notice of the Governor General in Council all circumstances relating either to the supposed grounds of such determination, or to the manner in which it may be executed ;

and whereas the ends of justice also require that due attention be paid to the health of every State prisoner confined under this Regulation, and that suitable provision be made for his support according to his rank in life, and to his own wants and those of his family ;

and whereas the reasons above declared sometimes render it necessary that the estates and lands of *zamindars*, *talukdars* and others situated within the territories dependent on the Presidency of Fort William<sup>[1]</sup> should be attached and placed under the temporary management of the Revenue Authorities without having recourse to any judicial proceeding ;

and whereas it is desirable to make such legal provisions as may secure from injury the just rights and interests of individuals whose estates may be so attached under the direct authority of Government ;

the Vice-President in Council has enacted the following rules, which are to take effect, throughout the provinces immediately subject to the Presidency of Fort William,<sup>[1]</sup> from the date on which they may be promulgated.

Proceeding  
for placing  
persons  
under  
restraint as  
State  
Prisoners.

2. *First*.—When the reasons stated in the preamble of this Regulation may seem to the Governor General in Council to require that an individual should be placed under personal restraint, without any immediate view to ulterior proceedings of a judicial nature, a warrant of commitment under the authority of the Governor General in Council, and under the hand of the Chief Secretary, or of one of the Secretaries to Government, shall be issued to the officer in whose custody such person is to be placed.

Form of  
warrant.

*Second*.—The warrant of commitment shall be in the following form :—

To the<sup>[2]</sup> (*here insert the officer's designation*).

“ Whereas the Governor General in Council, for good and sufficient reasons, has seen fit to determine that (*here insert the State prisoner's name*) shall be placed under personal restraint at (*here insert the name*

[1] This includes the present Province of Bihar and Orissa except the District of Sambalpur.

[2] As to the officers to whom warrants may be addressed, see the State Prisoners Act, 1850 (34 of 1850), in General Acts, 1834-72, Ed. 1928, p. 49, and the Prisoners Act, 1871 (5 of 1871), s. 15, in *ibid*, p. 347.

(Secs. 3-5.)

of the place), you are hereby required and commanded, in pursuance of that determination, to receive the person above-named into your custody, and to deal with him in conformity to the orders of the Governor General in Council and the provisions of Regulation 3 of 1818.

“Fort William, the

“By order of the Governor General in Council,

“A. B., Chief Secy. to Govt.”

*Third.*—The warrant of commitment shall be sufficient authority for the detention of any State prisoner in any fortress, jail or other place within the territories subject to the Presidency of Fort William.<sup>[1]</sup>

3. Every officer in whose custody any State prisoner may be placed shall, on the 1st of January and 1st of July of each year, submit a report to the Governor General in Council, through the Secretary to Government in the Political Department, on the conduct, the health and the comfort of such State prisoner, in order that the Governor General in Council may determine whether the orders for his detention shall continue in force or shall be modified.

4. *First.*—When any State prisoner is in the custody of a Zila Magistrate, the Judges are to visit such State prisoner on the occasion of the periodical sessions, and they are to issue any orders concerning the treatment of the State prisoner which may appear to them advisable, provided they be not inconsistent with the orders of the Governor General in Council issued on that head.

*Second.*—When any State prisoner is placed in the custody of any public officer not being a Zila Magistrate the Governor General in Council will instruct either the Zila Magistrate, or the Judge, or any other public officer, not being the person in whose custody the prisoner may be placed, to visit such prisoner at stated periods and to submit a report to Government regarding the health and treatment of such prisoner.

5. The officer in whose custody any State prisoner may be placed is to forward, with such observations as may appear necessary, every representation which such State prisoner may from time to time be desirous of submitting to the Governor General in Council

[1] This includes the present Province of Bihar and Orissa except the District of Sambalpur.

[2] The words “or City,” which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[3] The words “of Circuit,” which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

Authority of  
warrant.

Officers  
having  
custody of  
State  
prisoners to  
submit  
periodical  
reports.

State  
prisoners in  
custody of  
Zila or City  
Magistrate  
by whom to  
be visited.

State  
prisoners in  
custody of  
public  
officer, not  
being Zila  
or City  
Magistrate,  
by whom to  
be visited.

Representa-  
tions by  
State  
prisoners to  
be submit-  
ted to  
Government.

(Secs. 6-11.)

Report to Government regarding confinement, etc., of prisoners.

**6.** Every officer in whose custody any State prisoner may be placed shall, as soon after taking such prisoner into his custody as may be practicable, report to the Governor General in Council whether the degree of confinement to which he may be subjected appears liable to injure his health, and whether the allowance fixed for his support be adequate to the supply of his own wants and those of his family, according to their rank in life.

Appropriation of allowance for support.

**7.** Every officer in whose custody any State prisoner may be placed shall take care that the allowance fixed for the support of such State prisoner is duly appropriated to that object.

**8.** (*Applicability of ss. 3 to 7 to persons now confined as State prisoners.*) *Rep. by the Repealing Act, 1874 (16 of 1874).*

Attachment of estates by order of Government without decision of Court.

**9.** Whenever the Governor General in Council, for the reasons declared in the preamble to this Regulation, shall judge it necessary to attach the estates or lands of any *zamindar*, *jagirdar*, *talukdar* or other person, without any previous decision of a Court of Justice or other judicial proceeding, the grounds on which the Resolution of Government may have been adopted, and such other information connected with the case as may appear essential, shall be communicated, under the hand of one of the Secretaries to Government, to the Judge and Magistrate of the district in which the lands or estates may be situated, [1] [and] \* \* \* [2] to the *Sadar Diwāni Adālat* and *Nizāmat Adālat*.

Management of attached estates.

**10. First.**—The lands or estates which may be so temporarily attached shall be held under the management of the officers of Government in the Revenue Department; and the collections shall be made and adjudged on the same principles as those of other estates held under *khas* management.

Attached lands not liable to sale in execution.

**Second.**—Such lands or estates shall not be liable to be sold in execution of decrees of the Civil Courts, or for the realization of fines or otherwise, during the period in which they may be so held under attachment.

Government to arrange for satisfaction of decrees.

**Third.**—In the cases mentioned in the preceding clause the Government will make such arrangement as may be fair and equitable for the satisfaction of the decrees of the Civil Courts.

Rules as to cases where Government

**11.** Whenever the Governor General in Council shall be of opinion that the circumstances which rendered the attachment of such estate necessary have ceased to operate, and that the management of the

[1] This word "and," in s. 9, was inserted by the Amending Act, 1891 (12 of 1891), Sch. II—see General Acts, 1887-97, Ed. 1928, p. 188.

[2] The words "to the Provincial Court of Appeal and Circuit, and," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

(*Sec. 11.*)

estate can be committed to the hands of the proprietor without public orders hazard or inconvenience, the Revenue-authorities will be directed to <sup>release of</sup> ~~to~~ <sup>estate from</sup> release the estate from attachment, to adjust the accounts of the collec- ~~attachment.~~ tions during the period in which they may have been superintended by the officers of Government, and to pay over to the proprietor the profits from the estate which may have accumulated during the attachment.



## BENGAL REGULATION 1 OF 1819.

(THE BENGAL KANUNGOS AND PATWARIS REGULATION, 1819).<sup>[1]</sup>

(5th February, 1819.)

**A Regulation \* \* \***<sup>[2]</sup> for re-establishing *Kanungos* and reforming the office of *Patwari* throughout the Province of Bengal; and for explaining and modifying certain parts of Regulation 12, 1817.<sup>[3]</sup>

**1 to 3.** (*Preamble; controlling Revenue-authorities in Dinajpur, Rangpur and Gorakhpur.*) Rep. by the Repealing Act, 1873 (12 of 1873).

Appointment  
of *kánungos*  
throughout  
Bengal.

**4. First.**—*Kánungos* shall be appointed throughout the Province of Bengal in the same manner, and for the performance of the same duties, as are prescribed in Regulation 5, 1816,<sup>[4]</sup> in regard to the district of Cuttack, the *pargana* of Pataspur and its dependencies; and all the rules contained in the Regulation aforesaid are hereby extended generally to the Province of Bengal.

Regulation  
12 of 1817  
extended.

**Second.**—The provisions of Regulation 12, 1817,<sup>[3]</sup> are in like manner hereby extended to the several districts of the said Province to which they have not yet been applied.

Nomination  
of *kánungos*  
by persons  
other than  
Collectors.

**Third.**—Provided, however, that in cases in which it may not appear advisable, from whatever cause, to leave the selection and nomination of the *kánungos* to the Collector of the district, it shall be competent to the <sup>[5]</sup>[Local Government] to appoint such other officer specially to perform that duty, as <sup>[6]</sup>[it] may judge expedient; and the officer so appointed shall have and exercise, during such period as the <sup>[5]</sup>[Local

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<sup>[1]</sup> SHORT TITLE.—This short title was given by the Amending Act, 1903 (1 of 1903), Sch. I—see *post*, p. 620.

LOCAL EXTENT.—This Regulation extends to the whole of the former Province of Bengal—see s. 4 (1); but it may be suspended in any *mahál*—see s. 4 (4). It is in force in the Sonthal Parganas, see Vol. IV, Part IV; but its application is barred in the District of Angul by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 768.

<sup>[2]</sup> The words “for replacing the districts of Dinajpur and Rangpur under the management of the Board of Revenue; for extending the authority of the Board of Commissioners in Bihar and Benares to the district of Gorakhpur,” which were repealed by the Amending Act, 1891 (12 of 1891), are omitted.

<sup>[3]</sup> The Bengal Patwaris Regulation, 1817. It is printed *ante*, p. 131.

<sup>[4]</sup> The Bengal Kanungos Regulation, 1816. It is printed *ante*, p. 126.

<sup>[5]</sup> The words “Governor General in Council,” in the original text, are to be read as if the words “Local Government” were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 633.

<sup>[6]</sup> The word “he” in the original text is to be read as if the word “it” were substituted therefor—see *ibid*.

(Sec. 5.)

Government] may direct, the same powers as are vested generally in Collectors of land-revenue under the provisions of Regulation 5, 1816,<sup>[1]</sup> and Regulation 12, 1817.<sup>[2]</sup>

But nothing herein contained shall be construed to preclude the person holding permanently the office of Collector in such district from discharging the ordinary duties of his situation under the general rules and Regulations applicable to that branch of the public service.

*Fourth.*—Provided further that it shall be competent to the <sup>[3]</sup> *Power to*  
[Local Government] to suspend the operation of the rules contained in suspend  
this or any former Regulation, regarding *kánungos* and *patwáris*, within operation of  
any *maháls* in which the establishment of such officers, as prescribed in rules regard-  
those rules, may appear to be inexpedient. *ing kánungos*  
and  
*patwáris*.

*Fifth.*—Provided likewise that it shall be competent to the Board <sup>Board of</sup>  
of Revenue or other authority exercising the powers of that Board<sup>[4]</sup> Revenue  
to make such alteration in the duties to be performed by *kánungos* as may alter  
local circumstances shall suggest \* \* \* \* \*.<sup>[5]</sup> *duties*  
*of kánungos*.

*Sixth.*—Provided also that it shall be competent to the Board of <sup>And suspend</sup>  
Revenue<sup>[4]</sup> to suspend by proclamation the operation of the rules of operation of  
Regulation 12, 1817,<sup>[2]</sup> in the districts of Chittagong \* \* \*<sup>[6]</sup> and Regulation  
in any other parts of the country in which individual estates may gene- 12, 1817, in  
rally be of inconsiderable extent, until they shall have determined, certain  
under the discretion vested in them by sections 3, 18 and 33 of that places.  
Regulation, the number of *patwáris* to be appointed or retained, the  
mode in which they are to be remunerated and the *maháls* to be per-  
manently exempted from its general operation.

5. In all cases in which any village or villages, or any lands what- <sup>Collector</sup>  
soever the accounts of which may be kept by a single *patwári*, shall be may  
held by two or more persons under distinct engagements with Govern- nominate  
ment, it shall be competent to the Collector,<sup>[7]</sup> with the approval of the and appoint  
*patwári*  
in certain  
cases.

[1] The Bengal Kanungos Regulation, 1816. It is printed *ante*, p. 126.

[2] The Bengal Patwaris Regulation, 1817. It is printed *ante*, p. 131.

[3] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 633.

[4] As to the present constitution and powers of the Board of Revenue see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[5] The words and figures "anything in section 7, Regulation 4 of 1808, and other corresponding enactments, to the contrary, notwithstanding," which were repealed by the Amending Act, 1891 (12 of 1891), printed in General Acts, 1887-97, Ed., 1928, p. 188, are omitted.

[6] The words "and Sylhet," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[7] As to the exercise of functions of the Collector under this Regulation by other officers, see s. 4 (3), *ante*, and the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

(Secs. 6-7.)

Board of Revenue<sup>[1]</sup> or other authority exercising the powers of that Board,<sup>[1]</sup> to assume the direct nomination and appointment of such *patwāri*, with or without a reference to the proprietors.

But in all such cases the Collector<sup>[2]</sup> shall deviate as little as possible from established usage, and shall be careful to consult the inclinations, and maintain the interests, of all persons connected with the *mahāls* in question.

Explanation  
of section  
11, Regula-  
tion 12, 1817.

6. In explanation of section 11, Regulation 12, 1817,<sup>[3]</sup> it is hereby declared and enacted that, if any proprietor or farmer of land shall refuse or omit to furnish the statement required by section 4<sup>[4]</sup> of that Regulation within the period therein prescribed, or at any subsequent period, when called upon to do so by the Collector or other officer exercising the powers of Collector,<sup>[2]</sup> it shall be competent to the Collector<sup>[2]</sup> or other officer aforesaid, with the approval of the Board of Revenue or other authority exercising the powers of that Board,<sup>[1]</sup> to levy a daily fine upon such proprietor or farmer, until the statement required be furnished, to such amount as may appear proper, with reference to the circumstances of the case, and to the condition in life of the offender.

Penalty for  
unauthorized  
removal,  
etc., of  
*patwāri*.

7. The penalties prescribed in section 13, Regulation 12, 1817,<sup>[5]</sup> for the illegal removal of a *patwāri* from office, by a *zamindar* or other proprietor or farmer of land, are hereby declared applicable to all persons whatsoever who may, without due authority, remove from office any *patwāri* duly constituted or appointed; or who may oppose a *patwāri* so appointed or constituted, in the performance of his duties; or who may prevent his performing them, or who may resist or evade the entry of a *patwāri*, when duly appointed into the possession of his office.

[1] As to the present constitution and powers of the Board of Revenue see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[2] As to the exercise of functions of the Collector under this Regulation by other officers, see s. 4 (3), *ante*, and the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

[3] The Bengal Patwaris Regulation, 1817. Section 11 is printed on p. 133, *ante*.

[4] Section 4 of Ben. Reg. 12 of 1817 was repealed by the Repealing Act, 1874 (16 of 1874).

[5] The Bengal Patwaris Regulation, 1817. Section 13 is printed on p. 133 *ante*.

## BENGAL REGULATION 2 OF 1819.

[THE BENGAL LAND-REVENUE ASSESSMENT (RESUMED LANDS) REGULATION, 1819.]

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    *Fifth.*—Security in case of *mukarraris*.

SECTION.

- 23. Final assessment.
- 24. *First* —Limitation of suits in Civil Courts.  
      Proviso.  
      *Second.*—(*Repealed.*)
- 25. (*Repealed.*)
- 26. *First.*—Appeal from *Zila* to *Sadar* Court.  
      *Second.*—Procedure on such appeals.
- 27. (*Repealed.*)
- 28. *First.*—Validity of *farmans*, *sanads* or grants to be carefully ascertained.  
      *Second.*—Such deeds not to be received unless registered.
- 29, 30. (*Repealed.*)
- 31. *First.*—Regulation not to affect right of proprietors to waste-land guaranteed  
      at permanent settlement.  
      *Second.*—Nor to warrant claim to additional revenue from lands permanently  
      assessed on plea of error or fraud.  
      Exception.

BENGAL REGULATION 2 OF 1819.

[THE BENGAL LAND-REVENUE ASSESSMENT (RESUMED LANDS)  
REGULATION, 1819.][<sup>1</sup>]

(12th February, 1819.)

**A Regulation for modifying the provisions contained in the existing Regulations, regarding the resumption of the revenue of lands held free of assessment under illegal or invalid tenures, and for defining the right of Government to the revenue of lands not included within the limits of estates for which a settlement has been made.**

1. The rules contained in Regulations 19[<sup>2</sup>] and 37, [·] 1793, relative to the resumption of the revenue of lands held free of assessment under illegal or invalid tenures, and the corresponding provisions enacted in subsequent years, having been found inadequate to secure the just rights of Government, have from time to time been partially repealed or modified. Preamble.

Those rules, however, are still in force within several of the districts subordinate to this Presidency, and the Regulations by which they have in other districts been superseded appear to be in several respects defective.

It further appears to be necessary, in order to obviate all misapprehension on the part of the public officers, or of individuals, to declare generally the right of Government to assess all lands which, at the period of the decennial settlement, were not included within the limit

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[<sup>1</sup>] **SHORT TITLE.**—This short title was given by the Amending Act, 1903 (1 of 1903) Sch. I—*see post*, p. 620.

**LOCAL EXTENT.**—This Regulation was passed for the whole of the former Province of Bengal—*see* the concluding paragraph of s. 1, *post*, p. 162.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1873-86, Ed. 1928, p. 48), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1824 (14 of 1874), s. 3, to be in force in the districts of Hazaribagh, Ranchi, Palamau and Manbhum, and Pargana Dhalbhum, in the district of Singhbhum, in the Chota Nagpur Division—*see* Vol. IV, Part III.

The Regulation is in force in the Sonthal Parganas—*see* Vol. IV, Part IV; but it is barred in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 768.

**AMENDMENT.**—Ben. Reg. 2 of 1819 is modified by the Bengal Revenue-free Lands Regulation, 1825 (14 of 1825), *post*, p. 271.

[<sup>2</sup>] The Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 43.

[<sup>3</sup>] The Bengal Revenue-free Lands (Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 60.

(Secs. 2-3.)

of an estate for which a settlement was concluded with the owners, not being lands for which a distinct settlement may have been made since the above period, nor lands held free of assessment under a valid and legal title, and at the same time formally to renounce all claim on the part of Government to additional revenue from lands which were included within the limits of estates for which a permanent settlement has been concluded, at the period when such settlement was so concluded, whether on the plea of error or fraud, or on any pretext whatever, saving, of course, *mahils* expressly excluded from the operation of the settlement.

With the view, therefore, of establishing, on proper principles, one uniform course of proceeding in resuming the revenue of lands liable to assessment, so that the dues of Government may be secured without infringement of the just rights of individuals, the following rules have been enacted to be in force from the date of their promulgation throughout the Provinces immediately subordinate to the Presidency of Fort William.[<sup>1</sup>]

2. (*Repeals.*) *Rep. by the Repealing Act, 1874 (16 of 1874).*

Lands not included in decennial settlement, etc., liable to assessment, except lands held free of assessment under valid title.

3. *First.*—It is hereby declared and enacted that all lands which, at the period of the decennial settlement, were not included within the limits of any *pargana*, *manza* or other division of estates for which a settlement was concluded with the owners, not being lands for which a distinct settlement may have been made since the period above referred to, nor lands held free of assessment under a valid and legal title of the nature specified in Regulations 19[<sup>2</sup>] and 37,[<sup>3</sup>] 1793, and in the corresponding Regulations subsequently enacted, are and shall be considered liable to assessment in the same manner as other unsettled *mahils*; and the revenue assessed on all such lands, whether exceeding one hundred *bighas* or otherwise, shall belong to Government :

*Proviso.*

Provided, however, that nothing in the above rule shall be construed to affect the rights reserved to *zamindars*, *talukdars* and other proprietors of estates with whom a permanent settlement has been concluded, to the exclusive enjoyment of the rent assessed on lands held on an invalid tenure, free of assessment, within the limits of their respective estates and *taluks*, and of which the extent may not exceed one hundred *bighas* if in [*Bengal*,] Bihar or Orissa \* \* \* .[<sup>4</sup>]

[<sup>1</sup>] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

[<sup>2</sup>] The Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1793 It is printed *ante*, p. 43.

[<sup>3</sup>] The Bengal Revenue-free Lands (Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 60.

[<sup>4</sup>] The words "and fifty *bighas* if within the Province of Benares," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

(Secs. 4-5.)

*Second.*—The foregoing principles shall be deemed applicable not only to tracts of land such as are described to have been brought into cultivation in the Sundarbans, but to all *chars* and islands formed since the period of the decennial settlement, and generally to all lands gained by alluvion or dereliction since that period, whether from an introcession of the sea, an alteration in the course of rivers or the gradual accession of soil on their banks.<sup>[1]</sup>

Same principle applicable to *chars* and alluvion lands.

*Third.*—The same principle shall likewise be deemed applicable to all land which, though included at the period of the permanent settlement within the limits of *taluks* held by individuals under special *pattas* from the Collector, such as the *patitābadi* and *jāngal-bari taluks* in the districts of the 24-Parganas and Jessore, may not have been permanently assessed at the above-mentioned period :

Also to lands included within particular *taluks*.

Provided, however, that in respect to such lands, if in the possession of the original *putta*-holder, or his legal representative, the conditions of the *patta* in regard to the assessment of the land included within the limits specified in that instrument shall be strictly maintained.

Proviso.

4. The several rules prescribed in Regulations 19<sup>[2]</sup> and 37<sup>[3]</sup> of 1793 \* \* \* \* \*<sup>[4]</sup> and 12 of 1805<sup>[5]</sup> for determining the validity of grants for holding lands exempt from the payment of public revenue, are hereby declared applicable to grants for holding lands under *mukarrari* or other tenures limiting the demand of Government :

Application of existing rules to grants for holding lands under *mukarrari* or other tenures

Provided, however, that nothing in this section shall be construed to affect the rules contained in Regulation 8, 1793,<sup>[6]</sup> relative to the assessment of lands held under valid grants or leases of the above nature \* \* \* .<sup>[7]</sup>

Proviso.

<sup>[8]</sup>5. *First.*—Whenever a Collector<sup>[9]</sup> of revenue or other officer<sup>[9]</sup> exercising the powers of Collector shall have reason to believe that any

Power to direct investigation regarding liability of lands to be assessed.

[1] As to the assessment of lands gained from sea or river by alluvion or dereliction, see the Bengal Alluvion and Diluvion Act, 1847 (9 of 1847), *post*, p. 306.

[2] The Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 43.

[3] The Bengal Revenue-free Lands (Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 60.

[4] The words and figures "and Regulations 41 and 42 of 1795, Regulations 31 and 36 of 1803, Regulations 8," which were repealed by the Amending Act, 1891 (12 of 1891), are omitted.

[5] The Cuttack Land-Revenue Regulation, 1805. It is printed *ante*, p. 38.

[6] The Bengal Decennial Regulation, 1793. It is printed *ante*, p. 28.

[7] The words and figures "nor to alter the provisions contained in Regulation 1, 1815, by which tenures of that description are declared liable to assessment on the death of the grantee," which were repealed by the Amending Act, 1891 (12 of 1891), are omitted.

[8] Section 5 has been modified by the Bengal Land-revenue Settlement Regulation, 1825 (9 of 1825), s. 5, *post*, p. 256.

[9] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.



## (Sec. 5.)

lands lying within the sphere of his official control are liable to assessment, either as being held under an invalid tenure free of assessment, or at an inadequate *jama*, or as being liable to assessment on the principles stated in section 3 of this Regulation, he shall report the circumstances to the Board of Revenue or other authority exercising the powers of that Board,<sup>[1]</sup> who, should they be of opinion that proper grounds exist for inquiry, shall direct the Collector<sup>[2]</sup> or other officer<sup>[2]</sup> aforesaid to enter on an investigation of the case in the manner hereafter mentioned.

Notice to party.

*Second.*—The Collector,<sup>[2]</sup> on receiving the authority of the Board of Revenue, shall call the party before him by a notice stating the demand of Government on the lands, and requiring him to attend either in person or by *wakil*, within the period of one month, and to produce all *sanads* or other writings in virtue of which he may possess the lands, or under which they may have been, or may be, claimed to be held free of assessment, or at a fixed *jama*.

Or to his agent if accredited agent reside at *sadar* station.

*Third.*—If the persons whose lands it is proposed to assess have an accredited agent at the *sadar* station, with general powers to act for his principal, the notice to be issued under the preceding clause shall be tendered to such agent, to be communicated by him to his principal, and the agent's acknowledgment to be endorsed upon it shall be accepted as a sufficient service of it, if he be desirous of giving such acknowledgment in preference to the notice being served on the person of his principal by a *chaprasi* or peon of the Collector.

Notice on principal to be served through *nazir* by single peon.

*Fourth.*—If the person, the revenue of whose lands it is proposed to resume, shall not have an accredited agent at the *sadar* station of the description above-mentioned, or if such agent shall decline receiving the notice for communication to his constituent, and the defendant be resident within the collectorship, it shall be served on him through the *nazir* of the Collector by a single *chaprasi* or peon, who shall require the acknowledgment of the party to be endorsed upon it, or, if he be absent from his usual place of residence, the acknowledgment of his principal agent, or of any person acting for him during his absence.

Notice how served if party reside in another jurisdiction.

If the party be resident within the jurisdiction of any other Collectorship than that in which the lands proposed to be assessed are situated, the notice shall be transmitted to the Collector<sup>[2]</sup> of the district in which the party may reside, to be served in the manner above directed.

[1] As to the present constitution and powers of the Board of Revenue see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[2] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

## (Sec. 6.)

If the party be neither resident within the Collectorship in which the lands in question may be situated, nor in any other Collectorship, the notice shall be served upon his agent or representative in charge of the lands.

*Fifth.*—Provided always that, if any party or his agent in charge of his land, on whom a notice may be served in the manner above prescribed, shall refuse to acknowledge the receipt of it when required by the person serving it, the tender of the notice to such party or his agent shall be taken for a sufficient service; such tender to be proved by the evidence of two persons residing on the lands or in the nearest village.

*Sixth.*—The Collector<sup>[1]</sup> shall, in the notice summoning the party, warn him that, if he withhold any writings of the nature specified in the second clause of this section within the period prescribed, they will not afterwards be received unless he shall show good and sufficient cause for not producing them and shall assign such cause on his appearing before him.

<sup>[2]</sup>6. *First.*—If the holder of such lands to whom a notice may have been issued as directed in the preceding section shall abscond, or is not after diligent search to be found, or shall shut himself up in any house or building, or retire to any place, so that the notice cannot be served upon him, the Collector or other officer<sup>[1]</sup> exercising the power of Collector, on receiving the *nazir's* return to this effect, shall issue a proclamation, to be affixed in some conspicuous part of his *cutcherry*.

The proclamation shall be written<sup>[3]</sup> [in the vernacular of the district,] and it shall contain a copy of the former notice and a further notification to the party that, if he shall not appear on a day to be fixed (which shall not be less than fifteen days from the time that the proclamation may be fixed up), the Collector<sup>[1]</sup> will proceed, without further notice, to hold the inquiry *ex parte*.

The Collector or other officer<sup>[1]</sup> exercising the power of Collector shall likewise order a copy of the proclamation and notice to be fixed up, with all practicable despatch on the outer door of the house in which the holder of the lands may have usually dwelt, or in some conspicuous place in the chief village within, or in the neighbourhood of, the lands proposed to be assessed.

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

[2] Section 6 has been modified by the Bengal Land-revenue Settlement Regulation 1825 (9 of 1825), s. 5, *post*, p. 256.

[3] These words in square brackets in s. 6 were substituted for the original words by the Amending Act, 1891 (12 of 1891), Sch. II—see General Acts, 1887-97, Ed. 19: p. 188.

(Secs. 7-9.)

*Nazir's*  
return how  
made.

*Second.*—The *nazir* shall return the order with an endorsement stating at what times and places the proclamation may have been fixed up.

The return of the *nazir* shall be filed with the Collector's<sup>[1]</sup> proceedings in the case.

If party  
does not  
appear, or  
refuses to  
answer,  
case to be  
investiga-  
ted.

If the party shall not appear at the time limited in the proclamation, or if a party who may have been served with a notice shall not appear within the time therein limited, or if, having appeared, he shall refuse to give answer, the Collector<sup>[1]</sup> shall proceed to investigate and decide upon the case in the same manner as if the party had appeared, answered and entered into proof.

What  
inquiry to  
be made

7. In cases of land supposed to be liable to assessment under the provisions of section 3 of this Regulation, the Collector or other officer<sup>[1]</sup> exercising the powers of Collector shall institute a full and particular inquiry into the circumstances and condition of the land in question at the period of the decennial settlement, and, in cases of alluvion land, into the period of its formation.

Collector  
with  
sanction of  
Board may  
cause  
survey or  
measure-  
ment.

<sup>[2]</sup>8. When an inquiry in regard to land of the nature of that described in the foregoing section shall have been authorized, it shall be competent to the Collector,<sup>[1]</sup> with the sanction of the Board of Revenue or other authority exercising the powers of that Board,<sup>[3]</sup> previously obtained, to cause a survey or measurement to be made of all such lands, and of the estate to which such lands may be alleged to belong.

Collector  
may  
summon  
*patwāris*,  
and require  
accounts and  
examine on  
oath.

9. It shall likewise be competent to the Collector,<sup>[1]</sup> in all cases of inquiry held under the provisions of this Regulation, to summon the *patwāri*, *gumashta* or other person by whom the accounts relating to the lands proposed to be assessed, or to the estate to which the lands may be alleged to belong, are kept and to require him to produce all accounts relating to such lands or estate, and to examine him on oath<sup>[4]</sup> to the truth of such accounts, and on any other matter relating to such accounts, or regarding such lands or estate, in the manner specified in section 22, Regulation 12 of 1817.<sup>[5]</sup>

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

[2] Section 8 has been modified by the Bengal Land-revenue Settlement Regulation, 1825 (9 of 1825), s. 5, *post*, p. 256.

[3] As to the present constitution and powers of the Board of Revenue see the Bihar and Orissa Board of Revenue Act, 1913 (B and O. Act 1 of 1913), printed in Vol. III of this Code.

[4] As to the oaths, see the Indian Oaths Act, 1873 (10 of 1873), in General Acts 1873-86 Ed. 1928, p. 7.

[5] The Bengal Patwāris Regulation, 1817. S. 22 of the Regulation is printed *ante*, p. 135.

(Secs. 10-12.)

[<sup>1</sup>]10. It shall be further competent to the Collector[<sup>2</sup>] in such cases, with the sanction of the Board of Revenue or other authority exercising the powers of that Board,[<sup>3</sup>] to require the person claiming to be proprietor or farmer of the lands proposed to be assessed, or of the estates to which they are alleged to belong, to attend either in person or by representative, and to produce all the accounts relating to such lands or estate within a reasonable period, not being less than one week.

And may require attendance of person claiming land, with his accounts.

[<sup>1</sup>]11. \* \* [<sup>5</sup>] Whenever the Collector or person exercising the powers of Collector[<sup>2</sup>] shall require the attendance of any proprietor or farmer, or of any *patwari* or *gumashta* or other officer for the purpose stated in the above section, he is to serve such proprietor or other person as aforesaid with a written notice under his official seal and signature, stating the purpose for which his attendance is required, the papers (if any) which he is to bring with him, and the period within which he is to attend.

Notice to such person.

Second. (Mode of serving notice.) Rep. by the Repealing Act, 1876 (12 of 1876).

[<sup>0</sup>]12. If any *patwari*, *gumashta* or other person by whom the accounts of lands are kept, and who may be summoned by a Collector[<sup>2</sup>] [or Commissioner] under the provisions contained in sections 9 and 11 of this Regulation, shall neglect or omit to produce his original accounts on the requisition of the Collector[<sup>2</sup>] [or Commissioner,] or to give his evidence regarding them, or shall intentionally and deliberately give a false deposition on oath before the Collector [<sup>2</sup>] [or Commissioner], when summoned and examined as aforesaid, or shall alter, fabricate, falsify or mutilate the accounts relating to such lands, or to the estate to which such lands are stated to belong,[<sup>7</sup>] [he] shall be and be held liable to the pains and penalties specified in sections 23 \* \* [<sup>8</sup>] and 27 of Regulation 12, 1817, [<sup>0</sup>] according as the provisions of one or other of those sections may be applicable to the offence committed by him.

Penalties on *patwari*s neglecting to produce accounts, falsifying them or giving false evidence

[<sup>1</sup>] Section 10 has been modified by the Bengal Land-revenue Settlement Regulation, 1825 (9 of 1825), s. 5, *post*, p. 256.

[<sup>2</sup>] As to the exercise of functions of Collectors by other officers, *see* the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822) s. 35, *post*, p. 256.

[<sup>3</sup>] As to the present constitution and powers of the Board of Revenue *see* the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[<sup>4</sup>] Section 11 has been extended by the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 19 (2), *post*, p. 225, and modified by the Bengal Land-revenue Settlement Regulation, 1825 (9 of 1825), s. 5, *post*, p. 256.

[<sup>5</sup>] The word "*First*" was repealed by the Repealing Act, 1876 (12 of 1876), and is omitted.

[<sup>6</sup>] Section 12 has been extended by the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 19 (2), *post*, p. 225.

[<sup>7</sup>] This word "he" in s. 12 was inserted by the Amending Act, 1891 (12 of 1891), Sch. II—*see* General Acts, 1887-97, Ed. 1928, p. 188.

[<sup>8</sup>] The figures "26," in s. 12, which were repealed by *ibid*, are omitted.

[<sup>9</sup>] The Bengal *Patwari*s Regulation, 1817. Ss. 23 and 27 are printed *ante*, pp. 136, 137.

## (Sec. 13.)

Lands may  
be attached,  
if holders  
neglect to  
furnish  
accounts.

[<sup>1</sup>]13. *First*.—If the holder of any lands in regard to which the Collector[<sup>2</sup>] shall have been authorized by the Board of Revenue or other authority exercising the powers of that Board[<sup>3</sup>] to institute the inquiry described by section 7 of this Regulation shall refuse or neglect to furnish the accounts relating to such lands within the period specified in the Collector's[<sup>2</sup>] requisition, the Board of Revenue or other authority exercising the powers of that Board[<sup>3</sup>] shall be competent to direct the lands to be immediately attached, and the rents collected on account of Government, in the same manner as if the lands were the property of Government.

Inquiry in  
such cases.

In such cases, however, it shall still be the duty of the Collector[<sup>2</sup>] to make a full inquiry into the title of the holder of the lands, and to transmit his proceedings to the Board,[<sup>3</sup>] who will decide whether the lands shall be deemed permanently liable to assessment.

Accounts not  
furnished  
to Revenue-  
authorities  
not after-  
wards to be  
received  
in evidence  
in suits to  
contest  
their  
decision.  
Exception.

*Second*.—Provided further that, if the holder of any lands assessed under the rules of this Regulation shall institute a suit in Court to contest the decision of the Revenue-authorities, and shall produce any accounts or documents besides such as he may have delivered to the Collector,[<sup>2</sup>] the accounts or documents so produced shall not be received by the Court in evidence, nor shall they have any weight in the decision, any more than if they had never existed, unless he shall show good cause, to the satisfaction of the Court, for not having produced the said accounts or documents, and shall prove that he assigned such cause in answer to the Collector's[<sup>2</sup>] requisition, or show good cause for not having done so.

Fines for  
non-attend-  
ance of pro-  
prietor or  
agent, or for  
omission to  
furnish  
accounts.

[<sup>4</sup>] *Third*.—Provided also that, if any proprietor or farmer shall omit or refuse to attend, or to cause his officer or agent to attend, when duly summoned by the Collector[<sup>2</sup>] [*or Commissioner,*] by the time prescribed in the notice issued by the Collector[<sup>2</sup>] [*or Commissioner,*] or shall omit or refuse to furnish the accounts or documents required, and to show sufficient cause for such omission, the Board of Revenue or other authority exercising the powers of that Board,[<sup>3</sup>] are authorized and empowered to impose upon him such daily fine,[<sup>5</sup>] to be payable

[<sup>1</sup>] Section 13 has been modified by the Bengal Land-revenue Settlement Regulation, 1825 (9 of 1825), s. 5, *post*, p. 256.

[<sup>2</sup>] As to the exercise of functions of Collectors by other officers, *see* the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

[<sup>3</sup>] As to the present constitution and powers of the Board of Revenue *see* the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[<sup>4</sup>] Clause *Third* of s. 13 has been extended by the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 19 (2), *post*, p. 225.

[<sup>5</sup>] For power of Collector to impose a daily fine, *see* the Bengal Landholders Attendance Act, 1848 (20 of 1848), *post*, p. 309.

## (Secs. 14-16.)

daily, until he complies with the Collector's<sup>[1]</sup> requisition, as they may think adequate to his situation and circumstances in life, reporting, however, the amount for the information of the<sup>[2]</sup> [Local Government].

The fine, when confirmed by Government, is to be levied by the same process as is prescribed for the recovery of arrears of revenue.

[<sup>3</sup>]14. If any *zamindar* or other person shall resist, or cause to be resisted, the attachment or measurement of lands which the Board of Revenue<sup>[4]</sup> or other authority exercising the powers of that Board<sup>[4]</sup> shall have authorized the Collector<sup>[1]</sup> [or Commissioner] to attach or measure under the provisions of this Regulation, or shall resist or cause to be resisted any process duly issued by the Collector<sup>[1]</sup> [or Commissioner] to compel a *patwari*, *gumashta* or other officer to produce his accounts, and to give his evidence respecting them under the provisions contained in section 9 of this Regulation, it shall be competent to the Board of Revenue<sup>[4]</sup> or other authority exercising the powers of that Board,<sup>[4]</sup> on being satisfied that he is guilty of the charge, to adjudge the *zamindar* or other person so offending to pay such fine to Government as may appear to it proper, upon a consideration of his situation and circumstances in life, and of the offence which he may have committed, and to levy the fine in the mode prescribed for the recovery of arrears of revenue :

Penalties  
for resistance  
of process.

Provided, however, that, if the fine shall exceed five hundred rupees, the Board<sup>[4]</sup> shall submit a report of the case to the<sup>[2]</sup> [Local Government], and shall not proceed to levy the fine until they shall receive authority from Government for that purpose.

Proviso.

[<sup>5</sup>]15. When the party whose lands it may be proposed to assess shall appear in conformity with the notice or summons, and shall deliver up his title-deeds, the Collector<sup>[1]</sup> shall give a receipt for them. and, after duly examining them, shall deliver to the party a statement of the grounds on which his land may appear liable to assessment, with copies, on plain paper, of all documents on which his opinion may be founded.

Procedure  
when parties  
attend and  
produce  
title-deeds.

The Collector<sup>[1]</sup> shall then desire the party to deliver a written answer within seven days.

16. It shall be the duty of the Collector or other officer exercising the powers of Collector<sup>[1]</sup> carefully to number, mark, date and sign all

Procedure in  
respect of  
documents  
produced.

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

[2] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 633.

[3] Section 14 has been extended by the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 19 (2), *post*, p. 225.

[4] As to the present constitution and powers of the Board of Revenue see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[5] Section 15 has been modified by the Bengal Land-revenue Settlement Regulation, 1825 (9 of 1825), s. 5, *post*, p. 256.

(Secs. 17-20.)

documents produced by a *zamindar* or other person in possession of the lands proposed to be assessed in support of his claim to hold them free of assessment, or as parcel of an estate for which a permanent settlement shall have been concluded, and to insert in his proceedings the title and number of such documents, so that no doubt may exist in regard to their having been exhibited before him :

and the Collector<sup>[1]</sup> shall, before proceeding to judgment, warn the party that no accounts or other documentary evidence of any kind which he shall not produce before him, and for not producing which he may not assign good and sufficient cause, will be received at any future period, either by the Revenue or Judicial Authorities, and shall record his having done so on the face of his proceedings.

Witnesses  
for and  
against  
claim of  
Government  
to be  
examined.

**17.** On receiving the answer of the party the Collector<sup>[1]</sup> shall summon any witnesses he may deem necessary to support the claim of Government, with any which the party may desire to have summoned on his behalf, and shall take their depositions in judicial form, and in the presence of the party or his authorized agent.

Examination  
of docu-  
ments.

**18.** The Collector<sup>[1]</sup> shall carefully examine all documents that may be produced by the party, and shall likewise give the party access to inspect all documents on which he may rely in proof of the liability of the land to assessment.

Collector's  
authority to  
summon  
witnesses,  
and  
administer  
oath.

<sup>[2]</sup>**19. First.**—The Collectors and other officers exercising the powers of Collectors<sup>[1]</sup> are hereby authorized to summon witnesses and administer oaths,<sup>[3]</sup> or cause the execution of solemn declarations in lieu thereof, in all cases brought before them under this Regulation \* \* \* \*<sup>[4]</sup>

*Second. (Penalties for perjury applicable to witnesses who affirm.)*  
*Rep. by the Repealing Act, 1873 (12 of 1873).*

*Third. (Penalties for resistance of process.) Rep. by the Repealing Act, 1876 (12 of 1876).*

Procedure  
on comple-  
tion of  
inquiry.

**20.** Having closed his proceedings, the Collector<sup>[1]</sup> shall record his opinion in a \* \*<sup>[5]</sup> *rubakari* detailing the grounds on which it is founded, and whether the lands appear liable to assessment or otherwise, and shall forward his proceedings to the Board of Revenue or other authority exercising the powers of that Board,<sup>[6]</sup> in such mode as may

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

[2] Section 19 has been extended by the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 19 (2), *post*, p. 225.

[3] As to oaths, see the Indian Oaths Act, 1873 (10 of 1873), in General Acts, 1873-86, Ed. 1928, p. 7.

[4] Portion repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

[5] The word "Persian," in ss. 20 and 21, which was repealed by *ibid.*, is omitted.

[6] As to the present constitution and powers of the Board of Revenue see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

(Secs. 21-22.)

be directed by that authority, furnishing the party at the same time with a copy on plain paper of the final *rubakari* aforesaid, and reporting his having done so to the Board or other authority<sup>[1]</sup> as aforesaid.

**21. First**—The Board of Revenue or other authority<sup>[1]</sup> aforesaid, after calling for any further evidence which, on a consideration of the Collector's<sup>[2]</sup> proceedings, they may deem wanting, shall, on a day to be fixed by a public notice affixed in the office, not being less than six weeks from the date on which the Collector<sup>[2]</sup> may have furnished the party with a copy of his final *rubakari*, and after hearing any thing which the party, if in attendance, may wish to urge on his own behalf, proceed to pass judgment in the case, and shall record their opinion in a \* \*<sup>[3]</sup> *rubakari*, delivering a copy thereof to the party on his requisition to that effect.

Procedure of Board on receipt of Collector's proceedings.

**Second.**—The final *rubakaris* which the Collectors<sup>[2]</sup> and the <sup>[4]</sup> [Board] are by the provisions of this section directed to record shall contain a distinct statement of the subject-matter of the case, the grounds on which the decision may be given, the names of the witnesses whose depositions may have been taken and the title of every exhibit read.

Final *rubakaris*.

**Third.**—If the Board of Revenue or other authority<sup>[1]</sup> aforesaid pronounce against the assessment, the proceedings shall be considered final, except on proof in a Court of Judicature of fraud or collusion in the previous inquiry.

In what cases decision of Boards final.

**Fourth.**—In the event of the Board's<sup>[1]</sup> declaring the lands liable to assessment, the Collector<sup>[2]</sup> shall inform the party or his *vakil* of the decision of the Board<sup>[1]</sup> and shall proceed to ascertain the limits of the land, and shall fix an assessment on the principles of the general Regulations on such information as may be procurable.

If land declared liable to assessment, Collector to fix assessment.

**[5] 22. First.**—If the party shall, within a fortnight of his receiving intimation of the Board's<sup>[1]</sup> decision, tender to the Collector<sup>[2]</sup> responsible security for the payment from that date of the *jama* which may

When party may be left in possession of land.

[1] As to the present constitution and powers of the Board of Revenue see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[2] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

[3] The word "Persian," in ss. 20 and 21, which was repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

[4] The word "Board," in s. 21 (2), was substituted for the word "Boards" by the Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 633.

[5] Section 22 has been modified and restricted by the Bengal Land-revenue Settlement Regulation, 1825 (9 of 1825), ss. 5 and 8, *post*, pp. 256 and 261, and has also been modified by the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1828 (3 of 1828), s. 10, *post*, p. 282.



## (Sec. 22.)

eventually be fixed on the land, with interest at the rate of twelve *per cent.*, and shall engage to institute a suit in the Court in which the case may be cognizable within ten days, commencing from the date of the deed of security, or (if the Court shall be shut, and shall not be opened until after the expiration of such ten days) within three days, calculating from the day on which it may be opened, to try the justness of the demand, the Collector<sup>[1]</sup> shall leave the party in possession as before, reporting the circumstance for the information of the Board<sup>[2]</sup> :

**Proviso.** Provided, however, that in such cases the party shall produce all his accounts of collections for the information of the Collector<sup>[1]</sup> in estimating the amount of the security to be required.

**Procedure of Collector if party do not furnish full security.** *Second.*—If the party be willing to give security for a portion only of the *jama* eventually assessable on the land, it shall be competent to him to do so on the conditions above specified.

In this case the Collector<sup>[1]</sup> shall, under the orders of the Board<sup>[2]</sup> either hold the lands *khas* or farm them for such period as the Board<sup>[2]</sup> may direct, and shall pay to the party a portion of the collections proportionate to the amount for which he may be willing and able to give responsible security.

**Court may determine on sufficiency of security tendered.** *Third.*—It shall be competent to the Court to direct the Collector<sup>[1]</sup> to take the security offered by the party, if he shall refuse to do so, and the Court shall be satisfied that it is sufficient; but it shall rest with the Collector,<sup>[1]</sup> subject to the directions of the Board,<sup>[2]</sup> to fix the amount for which the surety is to be held bound.

**Amount of security how regulated.** *Fourth.*—The amount shall not, in the first instance, exceed the estimated annual revenue assessable on the lands, or the amount receivable by the party in one year, with interest; but if, at the expiration of one year from the date on which the party may receive intimation of the Board's<sup>[2]</sup> decision, the suit shall still be pending, it shall be competent to the Collector<sup>[1]</sup> to require additional security for the same amount.

**Security in case of mukarraris.** *Fifth.*—In *mukarraris* the parties giving security, and intending to sue, shall continue to pay the *mukarrari jama*, and will be required to give security for the remaining revenue which may be eventually demandable from them.

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35. *post*, p. 236.

[2] As to the present constitution and powers of the Board of Revenue see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

(Secs. 23-26.)

[<sup>1</sup>]23. If the party do not give security, or having given security, neglect to sue, the Collector[<sup>2</sup>] shall proceed to the final assessment of the land. Final assessment.

[<sup>1</sup>]24. *First*.—Persons whose lands may be assessed, either in failure to give security or to institute a suit within the prescribed time, shall nevertheless be entitled to sue any time within one year from the date of their being informed of the Board's[<sup>3</sup>] decision; but after the above period shall have elapsed the decision of the Board[<sup>3</sup>] shall be final and conclusive : Limitation of suits in Civil Courts.

Provided, however, that in cases in which the party may be able to show good and sufficient cause for not having sued within the said period, such as minority or absence, no limitation as to time shall prevail other than that generally prescribed by the existing Regulations in regard to private claims. Proviso.

*Second*.—(Further proviso.) Rep. by the Repealing Act, 1874 (16 of 1874).

25. (Courts in which suits under this Regulation are to be instituted.) Rep. by the Repealing Act, 1874 (16 of 1874).

[<sup>4</sup>]26. *First*.—In cases instituted in the Zila Court \* \* \*, [<sup>5</sup>] an appeal shall be received by the Court of Sadar Diwani Adalat \* \* \* [<sup>5</sup>]. Appeal from Zila to Sadar Court.

*Second*.—\* \* \* [<sup>5</sup>] The Sadar Diwani Adalat \* \* \* [<sup>5</sup>] in all cases of \* \* \* [<sup>5</sup>] appeal being preferred in conformity with the provisions of this Regulation, shall, together with the decree against which such appeal may be lodged, likewise peruse the final *rubakari* filed in the case by the Board of Revenue or other authority exercising the powers of that Board[<sup>3</sup>]; and, if on a consideration of those documents the decision of the Court should appear unjust or erroneous or doubtful, or its proceedings in the case manifestly irregular or imperfect, or if, from the nature of the cause, as stated in the decree or otherwise, it shall appear to them of sufficient importance to merit a further investigation in appeal, they shall admit [<sup>6</sup>] [an appeal]. Procedure on such appeals.

[<sup>1</sup>] Sections 23 and 24 have been modified by the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1828 (3 of 1828), s. 10, *post*, p. 282.

[<sup>2</sup>] As to the exercise or functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

[<sup>3</sup>] As to the present constitution and powers of the Board of Revenue see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[<sup>4</sup>] Section 26 is modified by the Bengal Revenue-free Lands Regulation, 1825 (14 of 1825), s. 6, *post*, p. 276, and is saved by the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1828 (3 of 1828), s. 10 (4), *post*, p. 283.

[<sup>5</sup>] Words repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[<sup>6</sup>] The original words were "a special appeal." The word "special" was repealed by *ibid* and the words "an appeal" were substituted by the Amending Act, 1891, (12 of 1891), Sch. II—see General Acts, 1887-97, Ed. 1928, p. 188.

(Secs. 27-31.)

**27.** (Stamped paper and fees.) Rep. by the Repealing Act, 1874 (16 of 1874).

Validity of *farman*\*, *sanads* or grants to be carefully ascertained. **28.** *First.*—On the production of any written document purporting to be a *farman* of any King of Delhi, or to be a *sanad*, *parwana* or other grant of any *Wazir*, or of any *Nawab*, *Raja* or other potentate or person formerly exercising authority in any part of the Provinces and territories now subject to the British Government, it shall be the duty of the Revenue and Judicial Authorities before whom such document may be produced to ascertain the validity and authenticity of it, by reference to such offices and records, and by the examination of such living witnesses, as may be likely to lead to the due appreciation thereof; and the said authorities shall not receive such document in evidence merely on the credit of the seal, or other attestations impressed upon it, without some external evidence in corroboration of its authenticity.

Such deeds not to be received unless registered. *Second.*—Provided also that no document of the above description which may be produced to any Court or *Adalat* shall be received, nor any proceedings held thereon, nor any faith given thereto, unless it shall be proved that the said document has been duly registered under the rules and requisitions of Regulations 19<sup>[1]</sup> and 37<sup>[2]</sup>, 1793, [41 and 42. 1795] <sup>[3]</sup>, 8, 1800<sup>[4]</sup>, [31 and 36. 1803] <sup>[5]</sup> [and 7, 1808] <sup>[6]</sup>; or unless due cause be shown for the non-registry.

**29.** (Regulation applied to cases in which Collector suspects validity of original tenures of land, subsequently commuted for money-pensions.) Rep. by the Amending Act, 1891 (12 of 1891).

**30.** (Trial by Collectors of resumption and other suits)<sup>[6]</sup>. Rep. by the Bengal Land-revenue Resumption Act, 1862 (Ben. Act 7 of 1862).

Regulation not to affect right of proprietors to waste-land guaranteed at permanent settlement. **31.** *First.*—Nothing in the present Regulation shall be considered to affect the right of the proprietors of estates for which a permanent settlement has been concluded to the full benefit of all waste-lands included within the ascertained boundaries of such estates respectively at the period of the decennial settlement, and which have since been or may hereafter be reduced to cultivation. The exclusive advantages resulting

[1] The Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 43.

[2] The Bengal Revenue-free Land (Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 60.

[3] Ben. Regs. 41 and 42 of 1795 and 31 and 36 of 1803 were repealed (except in certain areas) by the N.-W. Provinces Land-revenue Act, 1873 (19 of 1873).

[4] The Bengal Revenue-free Lands Regulation, 1800. It is printed *ante*, p. 79.

[5] Ben. Reg. 7 of 1803 was repealed by Act 29 of 1871.

[6] Suits by proprietors, etc., for the resumption of revenue, and suits by persons claiming to hold land exempt from payment of revenue, are now heard by the Civil Courts like ordinary civil suits—see the Bengal Land-revenue Resumption Act, 1862 (Ben. Act 7 of 1862), s. 2, in Vol. II of this Code.

(Sec 31.)

from the improvement of all such lands were guaranteed to the proprietors by the conditions of that settlement, and it being left to the Courts of Judicature to decide on all contested cases whether lands assessed under the provisions of this Regulation were included at the period of the decennial settlement within the limits of estates for which a settlement has been concluded in perpetuity, and to reverse the decision of the Revenue-authorities in any case in which it shall appear that lands which actually formed, at the period in question, a component part of such an estate, have been unjustly subjected to assessment under the provisions of this Regulation, the *zamindars* and other proprietors of land will be enabled, by an application to the Courts, to obtain immediate redress in any case in which the Revenue-authorities shall violate or encroach on the rights secured to them by the permanent settlement.

*Second.*—It is further hereby declared and enacted that all claims by the Revenue-authorities on behalf of Government to additional revenue from lands which were at the period of the decennial settlement included within the limits of estates for which a permanent settlement has been concluded, whether on the plea of error or fraud, or on any pretext whatever saving of course, the case of lands expressly excluded from the operation of the settlement, such as *lakhiraj* and *thanadari* lands, shall be and be considered wholly illegal and invalid.

Nor to warrant claim to additional revenue from lands permanently assessed on plea of error or fraud.  
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BENGAL REGULATION 8 OF 1819.

(THE BENGAL PATNI TALUKS REGULATION, 1819.)

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## BENGAL REGULATION 8 OF 1819.

(THE BENGAL PATNI TALUKS REGULATION, 1819.)<sup>[1]</sup>

(3rd September, 1819.)

**A Regulation to declare the validity of certain tenures, and to define the relative rights of *zamindars* and *patni talukdars*; also to establish a process for the sale of such *taluks* in satisfaction of the *zamindar's* demand of rent** \* \* \* \* \*<sup>[2]</sup>

**1.** By the rules of the perpetual settlement<sup>[3]</sup> proprietors of estates paying revenue to Government, that is, the individuals answerable to Government for the revenue then assessed on the different *mahals*, were declared to be entitled to make any arrangements for the leasing of their lands in *taluk* or otherwise that they might deem most conducive to their interests. Preamble

By the rules of Regulation 44, 1793, <sup>[4]</sup> however, all such arrangements were subjected to two limitations; first, that the *jama* or rent should not be fixed for a period exceeding ten years; and, secondly, that in case of a sale for Government arrears, such leases or arrangements should stand cancelled from the day of sale.

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<sup>[1]</sup> SHORT TITLE.—This short title was given by the Amending Act, 1897 (5 of 1897), Sch. III.—*see post*, p. 546.

LOCAL EXTENT.—This Regulation extends to the whole of the former Province of Bengal—*see* the concluding paragraph of s. 1, *post*, p. 180.

The Regulation has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the district of Manbhum, and Pargana Dhalbhum, in the district of Singhbhum, in the Chota Nagpur Division—*see* Vol. IV, Part III.

It is in force in the Sonthal Parganas—*see* Vol. IV, Part IV; but its application is barred in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 768.

REFERENCES.—As to the application of parts of this Regulation to the recovery of sums payable under the Bengal Embankment Act, 1882 (Ben. Act 2 of 1882), *see* s. 74 of that Act, in Vol. II of this Code.

Certain instruments executed under the Ancient Monuments Preservation Act, 1904 (7 of 1904), are binding on purchasers at sales made under Ben. Reg. 8 of 1819—*see* Act 7 of 1904, s. 8, in General Acts, 1898-1909, Ed. 1928, p. 281.

FURTHER ENACTMENTS.—For other enactments dealing with *patni taluks*, *see* the Bengal Patni Taluks Regulation, 1820 (1 of 1820—*post*, p. 194), the Forfeited Deposits Act, 1850 (25 of 1850—*post*, p. 311), the Rent Recovery Act, 1853 (6 of 1853—*post*, p. 312), and the Bengal Rent Recovery (Under-tenures) Act, 1865 (Ben. Act 8 of 1865—in Vol. II of this Code).

Enactments relating to *patni taluks* are saved by the Orissa Tenancy Act, 1913 (B. and O. Act 2 of 1913), s. 252 (e), printed in Vol. III of this Code, and by the Bengal Tenancy Act, 1885 (8 of 1885), s. 195 (e), *post*, p. 504.

<sup>[2]</sup> Words repealed by the Amending Act, 1891 (12 of 1891), are omitted.

<sup>[3]</sup> *See* the Bengal Permanent Settlement Regulation, 1793 (1 of 1793), *ante*, p. 3.

<sup>[4]</sup> Reg. 44 of 1793 was repealed by Act 29 of 1871.

## (Sec. 1.)

The provisions of section 2, Regulation 44, 1793,<sup>[1]</sup> by which the period of all fixed engagements for rent was limited to ten years, have been rescinded by section 2, Regulation 5, 1812,<sup>[2]</sup> and in Regulation 18<sup>[3]</sup> of the same year, it is more distinctly declared that *zamindars* are at liberty to grant *taluks* or other leases of their lands, fixing the rent in perpetuity at their discretion, subject, however, to the liability of being dissolved on sale of the grantor's estate for arrears of the Government revenue in the same manner as heretofore.

In practice, the grant of *taluks* and other leases at a rent fixed in perpetuity had been common with the *zamindars* of Bengal for some time before the passing of the two Regulations last mentioned, but, notwithstanding the abrogation of the rule which declared such arrangements null and void, and the abandonment of all intention or desire to have it enforced as a security to the Government revenue in the manner originally contemplated, it was omitted to declare in the rules of Regulations 5<sup>[2]</sup> and 18<sup>[3]</sup> of 1812, or in any other Regulations, whether tenures at the time in existence and held under covenants or engagements entered into by the parties in violation of the rule of section 2, Regulation 44, 1793,<sup>[1]</sup> should, if called in question, be deemed invalid and void as heretofore.

This point it has been deemed necessary to set at rest by a general declaration of the validity of any tenures that may be now in existence, notwithstanding that they may have been granted at a rent fixed in perpetuity, or for a longer term than ten years, while the rule fixing this limitation to the term of all such engagements, and declaring null and void any granted in contravention thereto, was in force.

Furthermore, in the exercise of the privilege thus conceded to *zamindars* under direct engagements with Government, there has been created a tenure which had its origin on the estates of the *Raja* of Burdwan, but has since been extended to other *zamindaris*; the character of which tenure is that it is a *taluk* created by the *zamindar*, to be held at a rent fixed in perpetuity by the lessee and his heirs for ever; the tenant is called upon to furnish collateral security for the rent, and for his conduct generally, or he is excused from this obligation at the *zamindar's* discretion; but even if the original tenant be excused, still, in case of sale for arrears, or other operation leading to the introduction of another tenant, such new incumbent has always in practice been liable to be so called upon at the option of the *zamindar*.

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[1] Reg. 44 of 1793 was repealed by Act 29 of 1871.

[2] The Bengal Land-revenue Sales Regulation, 1812. It is printed *ante*, p. 114.

[3] The Bengal Leases and Land-revenue Regulation, 1812. It is printed *ante*, p. 121.

## (Sec. 1.)

By the terms also of the engagements interchanged, it is amongst other stipulations provided that, in case of an arrear occurring, the tenure may be brought to sale by the *zamindar*, and, if the sale do not yield a sufficient amount to make good the balance of rent at the time due, the remaining property of the defaulter shall be further answerable for the demand.

These tenures have usually been denominated *patni taluks*, and it has been a common practice of the holders of them to underlet on precisely similar terms to other persons, who on taking such leases went by the name of *darpatni talukdars*: these again sometimes similarly underlet to *sepatnidars*; and the conditions of all the title-deeds vary in nothing material from the original engagements executed by the first holder.

In these engagements, however, it is not stipulated whether the sale thus reserved to himself by the grantor is for his own benefit, or for that of the tenant; that is, whether, in case the proceeds of sale should exceed the *zamindar's* demand of rent, the tenant would be entitled to such excess; neither is the manner of sale specified, nor do the usages of the country nor the Regulations of Government afford any distinct rules by the application of which to the specific cases the defects above alluded to could be supplied or the points of doubt and difficulty involved in the omission be brought to determination in a consistent and uniform manner.

The tenures in question have extended through several *zilas* of Bengal, and the mischiefs which have arisen from the want of a consistent rule of action for the guidance of the Courts of Civil Judicature in regard to them have been productive of such confusion as to demand the interference of the legislature; it has accordingly been deemed necessary to regulate and define the nature of the property given and acquired on the creation of a *patni taluk* as above described, also to declare the legality of the practice of under-letting in the manner in which it has been exercised by *patnidars* and others, establishing at the same time such provisions as have appeared calculated to protect the under-lessee from any collusion of his immediate superior with the *zamindar* or other, for his ruin, as well as to secure the just rights of the *zamindar* on the sale of any tenure under the stipulations of the original engagements entered into with him.

It has further been deemed indispensable to fix the process by which the said tenures are to be brought to sale, and the form and manner of conducting such sale; and

whereas the estates of *zamindars* under engagements with Government are liable to be brought to sale at any time for an arrear in the



## (Sec. 2.)

revenue payable by monthly *kists* to Government, it has seemed just to allow any *zamindar* who may have granted tenures with a stipulation of the right to sell for arrears the opportunity of availing himself of this means of realizing his dues in the middle of the year, as well as at the close, instead of only at the end of the Bengal year<sup>[1]</sup>, as heretofore allowed by the Regulations in force; it has further been deemed equitable to extend this rule to all cases in which the right of sale may have been reserved, even though, in conformity with the Regulations heretofore in force, the stipulation for sale contained in the engagements interchanged may have restricted such sale to the case of a demand of rent remaining unpaid at the close of the Bengal year.<sup>[1]</sup>

\* \* \* \* \*

The following rules have accordingly been enacted by His Excellency the Most Noble, the Governor General in Council, to take effect from the date of their promulgation throughout the several districts of the Province of Bengal, including [Midnapore].

Leases fixing  
rent in per-  
petuity or  
for more  
than ten  
years valid,  
though  
executed  
while section  
2, Regula-  
tion 44,  
1793, was in  
force.

2. It is hereby declared that any leases or engagements for the fixing of rent now in existence that may have been granted or concluded for a term of years or in perpetuity by a proprietor under engagements with Government, or other person competent to grant the same, shall be deemed good and valid tenures, according to the terms of the covenants or engagements interchanged notwithstanding that the same may have been executed before the passing of Regulation 5, 1812,<sup>[2]</sup> and while the rule of section 2, Regulation 44, 1793,<sup>[3]</sup> which limited the period for which it was lawful to grant such engagements to ten years, and declared all that might be entered into for a longer term to be null and void, was in full force and effect; and notwithstanding that the stipulations of the said leases may be in violation of the rule in question :

Provided, however, that nothing herein contained shall be held to exempt any tenures held under engagements from proprietors of estates paying revenue to Government from the liability to be cancelled on sale of the said estates for arrears of the said revenue, \* \* \*<sup>[5]</sup> unless especially exempted from such liability by the rule in question, or by any other specific rule of the Regulations in force.

[1] i.e., the middle of *Chaitra*, which corresponds with the last part of March and the first part of April.

[2] The words "It has been likewise deemed advisable to explain and modify some of the existing rules for the collection of rents, with a view to render them more efficacious than at present, as well as to provide against sundry means of evasion now resorted to by defaulters," which were repealed by the Amending Act, 1891 (12 of 1891), are omitted.

[3] The Bengal Land-revenue Sales Regulation, 1812. It is printed *ante*, p. 114.

[4] Ben. Reg. 44 of 1793 was repealed by Act 29 of 1871.

[5] The words and figures "under the rule of s. 5, Regulation 44 of 1793," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

## (Secs. 3-5.)

3. *First.*—The tenures known by the name *patni taluks*. as described in the preamble to this Regulation, shall be deemed to be valid tenures in perpetuity, according to the terms of the engagements under which they are held. They are heritable by their conditions; and it is hereby further declared that they are capable of being transferred by sale, gift or otherwise, at the discretion of the holder, as well as answerable for his personal debts, and subject to the process of the Courts of Judicature, in the same manner as other real property.

*Patni*  
tenure  
declared  
valid, trans-  
ferable and  
answerable  
for debt.

*Second.*—*Patni talukdars* are hereby declared to possess the right of letting out the lands composing their *taluks* in any manner they may deem most conducive to their interest; and any engagements so entered into by such *talukdars* with others shall be legal and binding between the parties to the same, their heirs and assignees:

*Patnidar's*  
right of  
under-let-  
ting.

Provided, however, that no such engagements shall operate to the prejudice of the right of the *zamindar* to hold the superior tenure answerable for any arrear of his rent, in the estate in which he granted it, and free of all incumbrance resulting from the act of his tenant.

*Third.*—In case of an arrear occurring upon any tenure of the description alluded to in the first clause of this section, it shall not be liable to be cancelled for the same; \* \* [1] but the tenure shall be brought to sale by public auction, and the holder of the tenure will be entitled to any excess in the proceeds of such sale beyond the amount of the arrear of rent due, subject, however, to the provisions contained in section 17 of this Regulation.

*Patni* tenure  
not voidable  
for arrears

4. If the holder of a *patni taluk* shall have underlet in such manner as to have conveyed a similar interest to that enjoyed by himself, as explained in the preamble to this Regulation, the holder of such a tenure shall be deemed to have acquired all the rights and immunities declared in the preceding section to attach to *patni taluks*, in so far as concerns the grantor of such under-tenure.

Inferior  
tenures  
under similar  
title-deeds  
confer  
similar  
interest  
to that  
provided for  
*patni taluks*  
in section 3.

The same construction shall also hold in the case of *patni taluks* of the third or fourth degree.

[2] 5. The right of alienation having been declared to vest in the holder of a *patni taluk*, it shall not be competent to the *zamindar* or other superior to refuse to register, and otherwise to give effect to such alienations, by discharging the party transferring his interest from personal responsibility, and by accepting the engagements of the transferee.

*Zamindar*  
not to refuse  
to give effect  
to transfer:

[1] The words and figures "under the rule contained in the seventh clause of s. 15, Regulation 7, 1799, for leases conveying a limited interest in the land," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[2] Section 5 does not apply to transfers of any fractional portion of a *patni taluk*, or to any alienation other than that of the entire interest—see the concluding paragraph of s. 6, *post*, p. 182.

## (Secs. 6-7.)

but may demand fee, In conformity, however, with established usage, the *zamindar* or other superior shall be entitled to exact a fee upon every such alienation; and the rate of the said fee is hereby fixed at two *per cent.* on the *jama* or annual rent of the interest transferred, until the same shall amount to one hundred rupees, which sum shall be the maximum of any fee to be exacted on this account.

and security. The *zamindar* shall also be entitled to demand substantial security from the transferee or purchaser, to the amount of half the *jama* or yearly rent payable to him from the tenure transferred; the condition of furnishing such security on requisition being understood to be one of the original liabilities of the tenure.

The above rules shall apply equally to the case of a sale made in execution of a decree or judgment of Court, as to all other alienations, but it shall not apply to the case of sale for an arrear in the rent due to the *zamindar* or other superior, under the rules hereinafter contained.

The purchaser at such a sale shall be entitled to have his name registered and to obtain possession without fee, though of course liable to be called on to give security under the conditions of the tenure purchased.

*Zamindar may refuse sanction to transfer till fee and security be tendered*

6. It shall be competent to the *zamindar* or other superior to refuse the registry of any transfer until the fee above stipulated be paid, and until substantial security to the amount specified be tendered and accepted:

Provided, however, that if the security tendered by any purchaser or transferee should not be approved by the *zamindar*, and the party tendering it shall be dissatisfied with such rejection, he shall be competent to appeal therefrom by petition or common motion in the Civil Court of the district, which authority, if satisfied of the sufficiency of the security tendered, shall issue an injunction on the *zamindar* to accept it and give effect to the transfer without delay.

It is hereby provided that the rules of this and of the preceding section shall not be held to apply to transfers of any fractional portion of a *patni taluk*, nor to any alienation other than of the entire interest; for no apportionment of the *zamindar's* reserved rent can be allowed to stand good unless made under his special sanction.

Upon public sale, if security not tendered within one month, *zamindar* may attach.

7. In case of the sale of a *patni* tenure in execution of a judgment of Court, if the purchaser do not, within the period of one month from the sale, conform to the rules of section 5 of this Regulation, in order to obtain the transfer of his tenure by the superior to whom the rent fixed upon it is payable, the *zamindar* or other superior shall be entitled, of his own authority, to send a *sazawal* to attach and hold possession of the tenure until the forms prescribed be observed.

## (Sec. 8.)

In case also of the sale of a *patni* tenure for arrears of the rent due upon it under the rules of this Regulation, if security be required by the *zamindar* and the purchaser fail to furnish the same within one month of the date of sale, the *zamindar* shall similarly be entitled to send a *sazawal* to attach and hold possession of the interest which may have passed on the sale, to the exclusion of the purchaser, until the prescribed security be given.

Attachments made under this section shall be regarded as trusts for the benefit and at the risk of the purchasers: consequently, after deducting the rent due and the expense of attaching, any surplus that may be yielded by the collections shall be held in deposit for such purchaser: but if the collections for the time fall short of the rent, the tenure and person of the proprietor shall be liable in the same manner as if no attachment had been made, and the accounts produced by the *zamindar* or other superior making the attachment shall be received as *prima facie* evidence to warrant process for an arrear so accruing.

[1] 8. *First.*—*Zamindars*, that is, proprietors under direct engagements with the Government, shall be entitled to apply in the manner following for periodical sales of any tenures upon which the right of selling or bringing to sale for an arrear of rent may have been specially reserved by stipulation in the engagements interchanged on the creation of the tenure.

Attachments to have effect of trust.

*Zamindars* allowed sales of tenures, in which right to sell for arrears is reserved.

The exercise of this power shall not be confined to cases in which the stipulation for sale may have been unrestricted in regard to time, but shall apply equally to tenures held under engagements stipulating merely for a sale at the end of the year, in conformity with the practice heretofore allowed by the Regulations in force.

*Second.*—On the first day of *Baisakh*,<sup>[2]</sup> that is, at the commencement of the following year from that of which the rent is due, the *zamindar* shall present a petition \* \* \*<sup>[3]</sup> to the Collector,<sup>[4]</sup> containing a specification of any balances that may be due to him on account of the expired year, from all or any *talukdars* or other holders of an interest of the nature described in the preceding clause of this section.

First sale to be applied for on first of *Baisakh*.

[1] As to the officer who should conduct sales of tenures of the nature of those described in clause *first* of s. 8 of Ben. Reg. 8 of 1819, see the Bengal Patni Taluks Regulation, 1820 (1 of 1820), s. 2, *post*, p. 194, and the Bengal Rent Recovery (Under-tenure) Act, 1865 (Ben. Act 8 of 1865), s. 3, in Vol. II of this Code.

As to the application of ss. 9, 11, 13, 15 and 17 of Ben. Reg. 8 of 1819 to such sales, see the Bengal Patni Taluks Regulation, 1820 (1 of 1820), s. 2 (3), *post*, p. 195.

[2] The month of *Baisakh* corresponds with the last part of April and the first part of May.

[3] The words "to the Civil Court of the district, and a similar one," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[4] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

## (Sec. 8.)

The same shall then be stuck up in some conspicuous part of the *cutcherry* with a notice that, if the amount claimed be not paid before the first of *Jeth*[<sup>1</sup>] following, the tenures of the defaulters will on that day be sold by public sale in liquidation.

Should, however, the first of *Jeth*[<sup>1</sup>] fall on a Sunday or holiday, the next subsequent day, not a holiday, shall be selected instead; a similar notice shall be stuck up at the *sadr cutcherry* of the *zamindar* himself, and a copy or extract of such part of the notice as may apply to the individual case shall be by him sent to be similarly published at the *cutcherry* or at the principal town or village upon the land of the defaulter.

The *zamindar* shall be exclusively answerable for the observance of the forms above prescribed, and the notice required to be sent into the *mufassal* shall be served by a single peon, who shall bring back the receipt of the defaulter, or of his manager, for the same, or, in the event of inability to procure this, the signatures of three substantial persons residing in the neighbourhood, in attestation of the notice having been brought and published on the spot.

If it shall appear from the tenor of the receipt or attestation in question that the notice has been published at any time previous to the fifteenth of the month of *Baisakh* [<sup>2</sup>] it shall be sufficient warrant for the sale to proceed upon the day appointed.

In case the people of the village should object or refuse to sign their names in attestation, the peon shall go to the *cutcherry* of the nearest *munsif*, or if there should be no *munsif*, to the nearest *thana*, and there make voluntary oath of the same having been duly published; certificate to which effect shall be signed and sealed by the said officers and delivered to the peon.

Mid-year  
sale to be  
applied for  
on first of  
*Kartik*.

*Third*.—On the first day of *Kartik*[<sup>3</sup>], in the middle of the year, the *zamindar* shall be at liberty to present a similar petition, with a statement of any balances that may be due on account of the rent of the current year, up to the end of the month of *Assin*[<sup>4</sup>], and to cause similar publication to be made of a sale of the tenures of defaulters, to take place on the first of *Aghan*, [<sup>5</sup>] unless the whole of the advertised balance shall be paid before the date in question, or so much of it as

[<sup>1</sup>] The month of *Jeth* corresponds with the last part of May and the first part of June.

[<sup>2</sup>] The month of *Baisakh* corresponds with the last part of April and the first part of May.

[<sup>3</sup>] The month of *Kartik* corresponds with the last part of October and the first part of November.

[<sup>4</sup>] The month of *Assin* corresponds with the last part of September and the first part of October.

[<sup>5</sup>] The month of *Aghan* corresponds with the last part of November and the first part of December.

## (Secs. 9-10.)

shall reduce the arrear, including any intermediate demand for the month of *Kartik*,<sup>[1]</sup> to less than one-fourth or a four-anna proportion of the total demand of the *zamindar*, according to the *kistbandi*, calculated from the commencement of the year to the last day of *Kartik*.<sup>[1]</sup>

[2]9. All sales of saleable tenures applied for under the rules of this Regulation shall be made in public *cutcherry* \* \* \*<sup>[3]</sup>; the land shall be sold to the highest bidder, and every one, not the actual defaulter, shall be free to bid, not excepting the person in satisfaction of whose demand the sale may be made, nor the under-tenants of the defaulter: fifteen *per cent.* of the purchase-money shall be paid immediately the lot is knocked down, and the officer conducting the sale shall be competent to refuse to accept a bid, or to knock down a lot to any bidder, unless he has assurance to his satisfaction that the amount required to be deposited is in hand for the purpose, or will be produced within two hours. Sales how conducted.

If the fifteen *per cent.* be not paid in cash, or in <sup>[4]</sup> [currency notes], within two hours of the sale, or an equivalent amount in Government securities be not lodged, the lot shall be re-sold on the same day, and, if the remainder of the purchase-money be not paid by noon of the eighth day, notice shall be given of re-sale on the following day, that is, on the ninth from the first sale, by proclaiming the same by beat of drum through the *bazar* of the *sadr* station of the *zila*, after which the lot shall be re-sold at the appointed time at the risk of the first purchaser, who shall forfeit the advance of fifteen *per cent.* already made. \* \*<sup>[5]</sup> and be further answerable for any sum in which the proceeds of the second sale may fall short of the antecedent one; such deficiency to be levied by the process for the execution of decrees of the Civil Courts.

10. At the time of the sale the notice previously stuck up in the *cutcherry* shall be taken down, and the lots be called up successively in the order in which they may be found in that notice. Forms to be observed in selling.

A person shall attend on the part of the *zamindar*, with a particular statement of the payments made up to the day of sale, on account of the

[1] The month of *Kartik* corresponds with the last part of October and the first part of November.

[2] As to the extension of the application of s. 9, see the Bengal Patni Taluks Regulation, 1820 (1 of 1820), s. 2 (3), *post*, p. 195.

[3] The words "by the Register or acting Register of the Civil Court, or, in his absence, by the person in charge of the office of Judge or of Magistrate of the district within which the lands may be situated," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[4] The words "currency notes" in s. 9 were substituted for the words "notes of the Bank of Bengal" by the Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 633.

[5] The words "(which shall be in such case regarded as part of the proceeds of the sale)," in s. 9, which were repealed by the Forfeited Deposits Act, 1850 (25 of 1850), are omitted. As to the application of forfeited deposits, see s. 2 of that Act, *post*, p. 311.

## (Sec. 11.)

balance of each advertised lot, together with the receipt for, or certificate of, the notice directed to be published in the *mufassal*, nor shall any lot be put up to sale until the statement produced shall have been inspected, and the existence of a balance for the year ascertained therefrom, nor until the receipt for the notice shall have been read; the observance of which forms shall be recorded in a separate *rubakari* to be held upon each lot sold.

If the sale be of the description provided for in the third clause of section 8 of this Regulation, the *kistbandi* of the defaulter shall likewise be produced, in order that it may be seen that the balance remaining unpaid exceeds a four-anna proportion of the demand up to the date of sale; nor shall the sale take place unless this be ascertained.

The *zamindar* shall be exclusively responsible for the correctness and authenticity of the papers to be thus exhibited, nor shall the public officer making the sale be answerable in any respect, except for its fairness and publicity, and for the observance of the rules prescribed for his guidance in this Regulation.

Tenure to be sold free of incumbrance by act of defaulter.

[<sup>1</sup>]11. *First*.—It is hereby declared that any *taluk* or saleable tenure that may be disposed of at a public sale, under the rules of this Regulation, for arrears of rent due on account of it, is sold free of all incumbrances that may have accrued upon it by act of the defaulting proprietor, his representatives or assignees, unless the right of making such incumbrances shall have been expressly vested in the holder by a stipulation to that effect in the written engagements under which the said *taluk* may have been held.

No transfer by sale, gift or otherwise, no mortgage or other limited assignment, shall be permitted to bar the indefeasible right of the *zamindar* to hold the tenure of his creation answerable, in the state in which he created it, for the rent, which is in fact his reserved property in the tenure, except the transfer or assignment should have been made with a condition to that effect, under express authority obtained from such *zamindar*.

No under-lease to stand after sale

*Second*.—In like manner, on sale of a *taluk* for arrears, all leases originating with the holder of the former tenure, if creative of a middle interest between the resident cultivators and the late proprietor, must be considered to be cancelled, except the authority to grant them should have been specially transferred; the possessors of such interests must consequently lose the right to hold possession of the land and to collect the rents of the *raiyats*; this having been enjoyed merely in consequence

[<sup>1</sup>] As to the extension of the application of s. 11, see the Bengal Patni Taluks Regulation, 1820 (1 of 1820), s. 2 (3), *post*, p. 195.

(Secs. 12-13.)

of the defaulter's assignment of a certain portion of his own interest, the whole of which was liable for the rent.

*Third.*—Provided, nevertheless, that nothing herein contained shall be construed to entitle the purchaser of a *taluk* or other saleable tenure intermediate between the *zamindar* and actual cultivators to eject a *khudkast raayat* or resident and hereditary cultivator, nor to cancel *bona fide* engagements made with such tenants by the late incumbent or his representative, except it be proved in regular suit, to be brought by such purchaser for the adjustment of his rent, that a higher rate would have been demandable at the time such engagements were contracted by his predecessor.

Exception in favour of *bona fide* engagements with *raiyats*.

12. The rules of the preceding section, being declaratory of the principle to be observed on all occasions wherein saleable tenures are made responsible for the *zamindar's* reserved rent, will equally apply to the case of *taluks*, heretofore sold, as to those that may be sold henceforward, if the sale shall have been fair, and the process observed in conducting it shall have been that recognised and in use in the district at the time of selling.

Above rule to take effect retrospectively.

Nothing, however, herein contained shall operate to the prejudice of any agreement, express or implied, now subsisting between the purchaser of a *taluk* and the lessees of his predecessor.

Proviso.

Neither shall the rule for the fall of under-tenures be considered to apply to any private transfer by a *talukdar* of his own interest, nor to a public sale in execution of a decree, nor to the case of a relinquishment by the *talukdar* in favour of the *zamindar*, nor to any act originating with the former holder, other than default as aforesaid: all such operations involve only a transfer of the tenure in the state in which it may be held at the time, and the new incumbent succeeds to no more than the reserved rights of the former tenant, such as they may be, and is of course subject to any restriction put upon the tenure by his act.

Rule not to apply to private transfers.

[1]13. *First.*—With reference to the injury that may be brought upon the holder of a *taluk* of the second degree by the operation of the preceding rules, in case the proprietor of the superior tenure purposely withholds the rent due from himself to the *zamindar* after having realized his own dues from the inferior tenantry, it is deemed necessary to allow such *talukdars* the means of saving their tenures from the ruin that must attend such a sale; and the following rules have accordingly been enacted for this purpose.

Reason for allowing under-tenants means of staying sale.

[1] As to the extension of the application of s 13, see—the Bengal Patni Taluks Regulation, 1820 (1 of 1820), s. 2 (3), *post*, p. 195, and the Bengal Rent Recovery (Under-tenures) Act, 1865 (Ben. Act 8 of 1865), s. 6 in Vol. II of this Code.



## (Sec. 13.)

How under-  
tenants may  
stay sale.

*Second.*—Whenever the tenure of a *talukdar* of the first degree may be advertised for sale in the manner required by the second and third clauses of section 8 of this Regulation, for arrears of rent due to the *zamindar*, the *talukdars* of the second degree, or any number of them, shall be entitled to stay the final sale, by paying into Court the amount of balance that may be declared due by the person attending on the part of the *zamindar* on the day appointed for sale; in like manner they shall be entitled to lodge money antecedently, for the purpose of eventually answering any demand that may remain due on the day fixed for the sale, and, should the amount lodged be sufficient, the sale shall not proceed, but, after making good to the *zamindar* the amount of his demand, any excess shall be paid back to the person or persons who may have lodged it.

Procedure in  
case of  
amount  
lodged  
being  
rent due  
from under-  
tenant;

*Third.*—If the amount so lodged shall be rent due by the inferior *talukdar* to the holder of the advertised tenure, the same shall be stated at the time of making the deposit, and the amount shall be carried to the account of the tenant or tenants lodging it, and be deducted from any claim of rent that may at the time be pending, or be thereafter brought forward against him or them by the proprietor of the advertised tenure, on account of the year or months for which the notice of sale may have been published.

and in case  
of amount  
lodged  
being  
advance  
from  
private  
funds.

*Fourth.*—If the person or persons making such a deposit, in order to stay the sale of the superior tenure, shall have already paid the whole of the rent due from himself or themselves, so that the amount lodged is an advance from private funds, and not a disbursement on account of the said rent, such deposit shall not be carried to credit in, or set against, future demands for rent, but shall be considered as a loan made to the proprietor of the tenure preserved from sale by such means, and the *taluk* so preserved shall be the security to the person or persons making the advance, who shall be considered to have a lien thereupon, in the same manner as if the loan had been made upon mortgage; and he or they shall be entitled, on applying for the same, to obtain immediate possession of the tenure of the defaulter, in order to recover the amount so advanced from any profits belonging thereto.

If the defaulter shall desire to recover his tenure from the hands of the person or persons who, by making the advance, may have acquired such an interest therein, and entered on possession in consequence, he shall not be entitled to do so, except upon repayment of the entire sum advanced, with interest at the rate of twelve *per cent. per annum* up to the date of possession having been given as above, or upon exhibiting proof, in a regular suit to be instituted for the purpose, that the full amount so advanced, with interest, has been realized from the usufruct of the tenure.

(Secs. 14-15.)

**14. First.**—Should the balance claimed by a *zamindar* on account of the rent of any under-tenure remain unpaid upon the day fixed for the sale of the tenure, the sale shall be made without reserve, in the manner provided for in sections 9 and 10 of this Regulation; nor shall it be stayed or postponed on any account, unless the amount of the demand be lodged. Sale not to be stayed unless arrear claimed be lodged.

It shall, however, be competent to any party desirous of contesting the right of the *zamindar* to make the sale, whether on the ground of there having been no balance due, or on any other ground, to sue the *zamindar* for the reversal of the same, and, upon establishing a sufficient plea, to obtain a decree with full costs and damages. But suit to lie for its reversal.

The purchaser shall be made a party in such suits, and, upon decree passing for reversal of the sale, the Court shall be careful to indemnify him against all loss, at the charge of the *zamindar* or person at whose suit the sale may have been made.

**Second.**—In cases also in which a *talukdar* may contest the *zamindar's* demand of any arrear, as specified in the notice advertised, such *talukdar* shall be competent to apply for a summary investigation at any time within the period of notice; the *zamindar* shall then be called upon to furnish his *kabuliyat* and other proofs at the shortest convenient notice, in order that the award may, if possible, be made before the day appointed for sale. Defaulter may apply for summary investigation.

Such award, if so made, will of course regulate the ulterior process; but, if the case be still pending, the lot shall be called up in its turn, notwithstanding the suit; and, if the *zamindar* or his agent in attendance insist on the demand, the sale shall be made on his responsibility, nor shall it be stayed, or the summary suit be allowed to proceed, unless the amount claimed be lodged in cash, or in Government securities, or in [1] [currency notes], by the *talukdar* contesting the demand; and if such deposit be not made, the alleged defaulter will have no remedy but by a regular action for damages and for a reversal of the sale. Sale not to be stayed unless amount claimed be deposited.

[2] **15. First.**—So soon as the entire amount of the purchase-money shall have been paid in by the purchaser at any sale made under this Regulation, such purchaser shall receive from the officers conducting the sale a certificate of such payment. Rules for purchasers obtaining possession.

The purchaser shall then proceed with the certificate in question to procure a transfer to his name in the *cutcherry* of the *zamindar*, and

[1] The words "currency notes" in s. 14 (2) were substituted for the words "notes of the Bank of Bengal" by the Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 633.

[2] As to the extension of the application of s. 15, see the Bengal Patni Taluks Regulation, 1820 (1 of 1820), s. 2 (3), *post*, p. 195.

## (Sec. 15.)

upon furnishing security, if required, to the extent of half the *jama* or annual rent, he shall receive the usual "*amaldustauk*" or order for possession, together with the notice to the *raiyats* and others to attend and pay their rents henceforward to him.

The *zamindar* shall also be bound to furnish access to any papers connected with the tenure purchased that may be forthcoming in his *cutcherry*; and should he in any manner delay the transfer in his office, or refuse to give the orders for possession, notwithstanding that good and substantial security shall have been furnished or tendered on requisition, the new purchaser shall be entitled to apply direct to the Court,<sup>[1]</sup> and he shall receive the orders for possession, and shall be put in possession, of the lands by means of the *nazir*, in the same manner as possession is obtained under a decree of Court :

Provided, however, that, if the delay be on account of the *zamindar's* contesting the sufficiency of the security tendered, the rule contained in section 6 of this Regulation shall be observed.

Procedure  
in case of  
opposition  
to purchaser.

*Second.*—When the new purchaser shall proceed to take possession of the lands of his purchase, if the late incumbent himself, or the holders of tenures or assignments derived from the late incumbent, and intermediate between him and the actual cultivators, shall attempt to offer opposition, or to interfere with the collections of the new purchaser, from the lands composing his purchase, the latter shall be at liberty to apply immediately to the Civil Court<sup>[1]</sup> for the aid of the public officers in obtaining possession of his just rights.

A proclamation shall then issue under the seal of the Court and signature of the Judge<sup>[1]</sup> declaring that the new incumbent having, by purchase at a sale for arrears of rent due to the *zamindar*, acquired the entire rights and privileges attaching to the tenure of the late *talukdar*, in the state in which it was originally derived by him from the *zamindar*, he alone will be recognized as entitled to make the *zamindari* collections in the *mufassal*, and no payments made to any other individual will on any account be credited to the *raiyats* or others in any \* \* \*<sup>[2]</sup> suit for rent \* \* \*<sup>[3]</sup> or on any other occasion whatever when the same may be pleaded.

Procedure  
in case of  
continued  
opposition.

*Third.*—Should the late incumbent or his late under-tenants continue to oppose the entry of the new purchaser, notwithstanding the issuing of such a proclamation, or should there be reason to apprehend a breach

[1] As to the substitution of the Collector for the Court, see the Bengal Rent Recovery (Under-tenures) Act, 1865 (Ben. Act 8 of 1865), s. 3, in Vol. II of this Code.

[2] The word "summary," which was repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

[3] The words and figures "brought under the provisions of s. 15, Regulation 7, 1799, or in any application to stay process by distraint, under the rules of Regulation 5, 1812," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

(Secs. 16-17.)

of the peace on the part of any one, the aid of the police-officers and of all other public officers who may be at hand and capable of affording assistance shall be given to the new purchaser, on his presenting a written application for the same; and in the event of any affray or breach of the peace occurring, the entire responsibility shall rest with the party opposing the lawful attempt of the purchaser to assume his rights.

**16.** (*Sale of under-tenure for arrears.*) *Rep. by the Bengal Rent Recovery (Under-tenures) Act, 1865 (Ben. Act 8 of 1865).*

[<sup>1</sup>] **17.** *First.*—The following rules have been enacted for the disposal of the proceeds of any sale made under the rules of this Regulation. Disposal of proceeds of sales.

*Second.*—One *per cent.* shall first be deducted from the net proceeds realized, and shall be carried to the account of Government, for the purpose of meeting the expense of any extra establishments which it may be necessary to maintain for carrying into effect the provisions of this Regulation. Deduction on account of Government.

*Third.*—The balance on account of which the sale may have been made shall next be made good in full (with interest and all charges incurred in bringing the *taluk* to sale) to the *zamindar* or other person to whom the same may be due: Payment to zamindars.

Provided, however, that no former balances, beyond those of the current year (or of that immediately expired, if the sale be at the commencement of the following year), shall be included in the demand to be thus satisfied. Such antecedent balances, if the *zamindar* shall have omitted to avail himself of the process within his reach for having them satisfied at the time, will have become in fact mere personal debts of the individual *talukdar*, and must be recovered in the same way as other debts by a regular suit in the Court.

*Fourth.*—Any excess that may remain after satisfying the demand of the *zamindar*, in the manner above described, shall be forthwith sent by the officer conducting the sale to the treasury of the Collector [<sup>2</sup>] or Assistant Collector of the district, to be there held in deposit to answer the claims of the *talukdars* of the second degree, or of others who, by assignment of the defaulter, may be at the time in possession of a valuable interest on the land composing the *taluk* sold, or on any part of it. Disposal of remainder.

*Fifth.*—It shall be competent to any one conceiving himself to possess such an interest to bring forward his claim to the price he may have paid for the same, or for a just compensation for the loss sustained by Under-tenure. Right to prosecute for price of their interest or compensation.

[<sup>1</sup>] As to the extension of the application of s. 17, see the Bengal Patni Taluks Regulation, 1820 (1 of 1820), s. 2 (3), *post*, p. 195.

[<sup>2</sup>] As to the exercise of functions of Collectors by other officers see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 36. *post*, p. 226.

## (Sec. 17.)

him in consequence of the sale, by instituting a regular suit at any time within two months from the date of sale.

If the Court shall, on investigation, consider the plaintiff's claim to be an equitable one, the Court will award to the claimant either the price he may have originally paid, or the value of the interest at the time of sale, or any other amount that may be deemed just and equitable under all the circumstances.

If there be more claimants than one, payment shall not be made from the deposit until the whole of the claims be settled; and, in case the value assessed upon the whole should exceed the amount in deposit, such amount shall be divided proportionately, and the remainder stand as a personal debt against the defaulter, to be realized from him by the usual process for the execution of decrees.

Suit not to lie if under tenant be himself in arrear at time of sale.

*Sixth.*—Provided, however, that no *talukdar* of the second degree or other possessor of an assigned interest upon the land of the tenure sold, who may be holding under a stipulation for the payment of an annual amount in the way of rent, shall be entitled to recover compensation for the loss of such tenure or assignment upon its becoming cancelled by sale of the superior *taluk*, except after exhibiting proof that the whole amount of the rent demandable from himself has been paid or lodged for the purpose prior to the date of sale.

When defaulter to receive excess unclaimed.

*Seventh.*—Should no claims upon the purchase-money of a *taluk* sold as above be brought forward by any under-tenants or assignees within the period of two months from the date of sale, or should the amount claimed by those who may have sued not equal the entire deposit, the defaulter whose tenure may have been sold shall be at liberty to petition the Court for the amount so held in deposit, or for the excess thereof, as the case may be, and he shall receive a certificate under the seal of the Court, of there being no claims to afford ground of detention for the whole or any part of the deposit; and, upon exhibiting such certificate to the Collector<sup>[1]</sup> the amount set free thereby shall be to his receipt.

In the same manner, upon executing a decree passed in favour of any under-tenants or assignees, they shall receive certificates under the seal of the Court, declaring the amount adjudged to them out of the deposit; and upon exhibiting these certificates the amount shall be paid severally to their receipts by the Collector<sup>[1]</sup>.

Substitution of Government securities for cash in deposit.

*Eighth.*—It shall be competent to any party interested in a deposit to withdraw the whole or any part thereof on substituting Government securities, bearing interest, in lieu of the money so held in deposit; such

(Secs 18-19 )

securities to be taken at the rate of discount or premium of the day \*  
\* \* [1]

**18, 19.** (*Rules regarding attachment of land of defaulter summary process against person of defaulter*) Rep by the Bengal Rent Act, 1859 (Act 10 of 1859)

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[1] The words "as shown by the Government Certificate received," which were repealed by the Amending Act, 1903 (1 of 1903) are omitted

## BENGAL REGULATION 1 OF 1820.

(THE BENGAL PATNI TALUKS REGULATION, 1820.)<sup>[1]</sup>

(11th January, 1820.)

**A Regulation for providing that all sales of certain taluks made answerable by sale for arrears of the *zamindar's* rent shall be conducted in the mode prescribed by Regulation 8, 1819,<sup>[2]</sup> for the sales therein described.**

Preamble.

1. Whereas it has been omitted to provide in the rules of Regulation 8, 1819<sup>[2]</sup>, whether, in case the proprietor of an estate paying revenue to Government should desire to bring to sale a saleable tenure of the nature defined in clause *first*, section 8, of that Regulation, for the realization of arrears of rent due thereupon, by any legal process other than that prescribed by the second and third clauses of the said section, such sale should be made in the public manner provided for the periodical sales therein described ;

And whereas it is consonant with justice, and was intended by the said Regulation, that, in every case of the sale of such tenures for arrears of the *zamindar's* rent, the sale should be public, for the security of the interests of the owner of the tenure sold, which object can in no manner be duly secured except the sales to be so made be conducted by an officer of Government in the same manner as the periodical sales provided for by section 8 of the said Regulation ;

the following additional rule has accordingly been passed by the Governor General in Council, to take effect, from the date of its promulgation, within the several districts of Bengal, including Midnapore :—

2. *First*.—Whenever the proprietor of an estate paying revenue to Government shall desire to cause any tenure of the nature of those described in clause *first*, section 8, Regulation 8, 1819<sup>[2]</sup>, to be sold for arrears of rent due to him on account thereof, and shall, under any summary process authorised by <sup>[3]</sup>[law] have acquired the right of

Rules of Reg. 8, 1819, for periodical sales for *zamindar's* arrears of rent, extended to other sales for rent.

[1] SHORT TITLE.—This short title was given by the Amending Act, 1897 (5 of 1897), Sch. III—see *post*, p. 546.

LOCAL EXTENT.—This Regulation extends to the whole of the former Province of Bengal—see the concluding paragraph of s. 1.

The Regulation is in force in the Sonthal Parganas, see Vol. IV, Part IV; but its application is barred in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 768.

OTHER ENACTMENTS.—For a list of other enactments dealing with *patni taluks*, see foot-note to the Bengal Patni Taluks Regulation, 1819 (8 of 1819), *ante*, p. 177.

[2] The Bengal Patni Taluks Regulation, 1819. It is printed *ante*, p. 177.

[3] The word "law" in s. 2 (1) was substituted for the words "the general Regulations" by the Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 633.

(Sec. 2.)

causing such sale to be made, the same shall be conducted, after application from the *zamindar*, by the Registrar or acting Registrar of the Zila \* \* [1] Court or, in his absence, by the person in charge of the office of Judge of the district [2] in the mode prescribed by Regulation 8 [3] above quoted for periodical sales

*Second* —Ten days' notice shall be given before proceeding to sale, Notice by  
by proclamation to be stuck up at the *cutcherry* of the Court and at that proclamation  
of the Collector of the district.

*Third* —The rules of sections 9, 11, 13, 15 and 17, Regulation 8, Rules  
1819 [3], are extended to all sales made after the manner herein provided. extended  
to sales  
hereunder

[1] The words "or City," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted

[2] The functions of the Judge of the district are transferred to the Collector by the Bengal Rent Recovery (Under tenures) Act, 1865 (Ben Act 8 of 1865), s 3, in Vol II of this Code.

[3] The Bengal Patni Taluks Regulation, 1819 It is printed *ante*, p 177.



# BENGAL REGULATION 4 OF 1821

[THE BENGAL LAND-REVENUE (ASSISTANT COLLECTORS)

REGULATION, 1821.][<sup>1</sup>

(19th January, 1821.)

**A Regulation \* \* \* \* \***<sup>[2]</sup> for explaining the duties of an Assistant Collector of revenue, and for defining the duties and powers vested in Assistant Collectors or other officers appointed to the charge of the revenues of *parganas* or other local divisions, or employed in the performance of any portion of the functions ordinarily belonging to the Collectors of land-revenue.

Preamble,

**1. \* \* \* \***<sup>[3]</sup> Whereas it is expedient to explain the duties which may be performed by the Assistants to the Collectors of revenue and to define the duties and powers vested in Assistant Collectors or other officers when appointed to the charge of the revenues of *parganas* or other local divisions, or when employed in the performance of any portion of the functions ordinarily belonging to Collectors of the land-revenue;

the following rules have been enacted, to be in force from the date of their promulgation throughout the territories subject to the Presidency of Fort William<sup>[4]</sup>

**2, 3.** (*Power to confer magisterial powers on Collectors, and vice versa; oath to be taken by such Collectors and Magistrates*) *Rep by the Repealing Act, 1873 (12 of 1873)*

**4 to 6.** (*Magistrates and Collectors, in the exercise of such powers, to be guided by Regulations, etc., in force, Magistrates employed in the*

<sup>[1]</sup> **SHORT TITLE**—This short title was given by the Amending Act, 1903 (1 of 1903), Sch. I—see *post*, p 620

**LOCAL EXTENT**—This Regulation was passed for the whole of the former Province of Bengal—see the concluding clause of s 1

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s 6 (printed in General Acts, 1873—86, Ed 1928 p 48), to be in force throughout the former Province of Bengal except as regards the Scheduled Districts

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s 3, to be in force in the districts of Hazaribagh, Palamau, Ranchi and Manbhum, and Pargana Dhalbhum, in the district of Singhbhum in the Chota Nagpur Division—see Vol IV, Part III

The application of the Regulation is barred in the Angul District by the Angul Laws Regulation, 1913 (3 of 1913), s 3 (2) *post* p 768 and in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation (3 of 1872) s 3 (2) as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899) s 3 *post*, p 700

<sup>[2]</sup> Portion of the title which was repealed by the Amending Act, 1891 (12 of 1891), is omitted

<sup>[3]</sup> Portion of s 1 which was repealed by the Repealing Act, 1876 (12 of 1876), is omitted

<sup>[4]</sup> This includes the present Province of Bihar and Orissa except the district of Sambalpur

(Secs. 7-8.)

collection of revenue to preserve records; rules declaring Collector amenable to Zila and City Courts to be applicable to such Magistrates.) Rep. by the Repealing Act, 1876 (12 of 1876).

7. In the institution of suits for the recovery of the public revenue, or in any case in which the institution of a suit by the Collector<sup>[1]</sup> in the Zila \* \* \*<sup>[2]</sup> Courts is authorized or directed<sup>[3]</sup> [by law], a Magistrate or Joint Magistrate or Assistant to a Magistrate, employed in the collection of the revenue, not being himself in charge of the office of Judge of a Zila \* \* \*<sup>[2]</sup> Court, shall proceed according to<sup>[4]</sup> [the law for the time being in force] for the guidance of the Collectors<sup>[1]</sup> under similar circumstances.

Institution of suit in Zila Court for public recovery of revenue.

8. *First.*—It is hereby declared and enacted that it is and shall be lawful for the <sup>[5]</sup>[Local Government] to cause such alterations to be made in the limits of the several Collectorships, and in the number of the officers employed as Collectors of land-revenue, as may from time to time appear expedient, as well as to vest such officers, being covenanted servants \* \* \*<sup>[6]</sup> with authority to exercise the whole or any part of the functions ordinarily exercised by Collectors of land-revenue in such *mahál* or *maháls* belonging to such district or districts as may from time to time be deemed expedient; and any officers so employed shall perform their prescribed duties in the same manner, and subject to the same conditions and liabilities, as attached to Collectors of land-revenue in regard to such duties.

Power to alter limits of collectorships, and number of officers employed as Collectors.

*Second.*—It shall also be competent to the Board of Revenue or other authority exercising the powers of the Board<sup>[7]</sup> to depute any of the officers subordinate to their authority to exercise and perform all or any of the powers and duties ordinarily vested in Collectors of land-revenue within such local limits as they may judge expedient :

Power to depute subordinate officer to perform Collector's duties.

Provided, however, that in all such cases the Board or other authority aforesaid<sup>[7]</sup> shall, on the day in which they may depute any officer as

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

[2] The words "or City" in s. 7, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[3] The words "by law", in s. 7, were substituted for the words "by the Regulations" by the Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 633.

[4] These words in square brackets in s. 7 were substituted for the words "the Regulations already in force" by *ibid.*

[5] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see *ibid.*

[6] The words "of the Honourable Company," which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

[7] As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

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aforesaid or as soon after as practicable, report their having done so for the information and orders of the<sup>[1]</sup>[Local Government].

Power of  
Collectors to  
delegate part  
of their  
duties to  
their assis-  
tants.

*Third.*—The Collectors<sup>[2]</sup> of revenue are hereby authorized, with the sanction of the Board of Revenue<sup>[3]</sup> \* \* \* <sup>[4]</sup> to delegate to their Assistants any part of their prescribed duties, which, from the extent of their general business or other cause, they may be unable to give due attention to themselves :

Provided always that in the event of a Collector<sup>[2]</sup> deputing his Assistant to make local inquiries, or for any other purpose connected with the collection of the public revenue, he shall immediately report the same for the information and orders of the Board of Revenue<sup>[3]</sup> \* \* \* <sup>[4]</sup> to which he may be subordinate.

*Fourth.*—(Oath to be taken by Assistant Collector.) *Rep. by the Repealing Act, 1873 (12 of 1873),*

Assistants,  
etc., to be  
guided by  
Regulations,  
responsible  
for perform-  
ance of  
duties, and  
amenable  
to Civil  
Courts.

*Fifth.*—Assistants or other officers<sup>[5]</sup> exercising the power of Collectors of revenue, or any portion thereof, under the provisions of this Regulation, shall be guided in every respect <sup>[6]</sup>[by the laws] which have been or may be enacted for the management and collection of the revenue, as far as the same may be applicable to the duties committed to them respectively, and shall be considered responsible for the due performance of the duties entrusted to them, and shall be amenable to the Civil Courts of Judicature for any acts done by them in their official capacity, in opposition <sup>[6]</sup>[to law], in the same manner, and under the same rules, as the Collectors of revenue.

[1] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 633.

[2] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 236.

[3] As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[4] The words "or the Boards of Commissioners," in s. 8, clause *Third*, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[5] The words "by the laws" were substituted for the words "by the Regulations" by the Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 633.

[6] The words "to law" were substituted for the words "to the Regulations" by *ibid*.

## BENGAL REGULATION 7 OF 1822.

(THE BENGAL LAND-REVENUE SETTLEMENT REGULATION, 1822.)

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## BENGAL REGULATION 7 OF 1822.

(THE BENGAL LAND-REVENUE SETTLEMENT REGULATION, 1822.)<sup>[1]</sup>

(8th August, 1822.)

A Regulation for declaring the principles according to which the settlement of the land-revenue in \* \* \*<sup>[2]</sup> Cuttack, Pataspur and its dependencies is to be hereafter made, and the powers and duties belonging to Collectors or other officers employed in making, revising or superintending settlements; \* \* \*<sup>[3]</sup> for defining, settling and recording the rights and obligations of various classes and persons possessing an interest in the land, or in the rent or produce thereof; and for vesting the Revenue-authorities with judicial cognizance in certain cases of suits and claims relating to land, the rent and produce of land.

Preamble.

1. *Whereas the existing settlement of the land-revenue in the Ceded Provinces will expire with the present Fasli year<sup>[4]</sup>, and it has therefore*

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<sup>[1]</sup> SHORT TITLE—This short title was given by the Amending Act, 1903 (1 of 1903), Sch. I—*see post*, p. 621.

LOCAL EXTENT—This Regulation, as originally passed, extended to the district of Cuttack—*see* the concluding paragraph of s. 1, *post*, p. 205. It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the following Scheduled Districts, namely:—

the districts of Hazaribagh, Ranchi, Palamau and Manbhum, and Pargana Dhalbhum, in the district or Singhbhum, in the Chota Nagpur Division—*see* Vol. IV, Part III.

It has since been applied—

- (1) to settlements made under the Bengal Alluvial Land Settlement Act, 1858 (31 of 1858)—*see* s. 2 of that Act, *post*, p. 344, and
- (2) to estates in any part of which a measurement, survey or local inquiry is made under the Bengal Land-revenue Sales Act, 1859 (11 of 1859), and to estates purchased or taken on account of the Government under that Act—*see* s. 60 of that Act, *post*, p. 369.
- (3) to proceedings under the Chota Nagpur Tenures Act, 1869 (Ben Act 2 of 1869)—*see* s. 4 of that Act—printed in Vol. II of this Code.

Section 2 (d) and ss 3 to 35 of the Regulation have also been extended, by the Bengal Land-revenue Settlement Regulation, 1825 (9 of 1825), s. 2, *post*, p. 254, to—

- (1) all lands not included within the limits of estates for which a permanent settlement had been concluded in the manner prescribed by the Bengal Decennial Settlement Regulation, 1793 (8 of 1793—*ante*, p. 28);
- (2) all estates held *khas*;
- (3) the hill lands of Bhagalpur; and
- (4) certain forests and wastes, and all estates bordering thereon.

It is further declared by the Bengal Land-revenue Settlement Regulation, 1825 (9 of 1825), s. 3 (*post*, p. 254), that Collectors or other officers may be invested with the powers specified in s. 20 of the present Regulation, and that ss. 21 to 35 of the present Regulation shall apply to areas in which this has been done.

[Ben. Reg. 7 of 1822.] *The Bengal Land-revenue  
Settlement Regulation, 1822.*

(Sec. 1.)

*become necessary to declare and enact the principles and rules according to which the demand of the State is thereafter to be regulated, and the manner in which future settlements and revisions of settlements are to be conducted*[<sup>5</sup>].

And whereas a moderate assessment being equally conducive to the true interests of Government and to the well-being of its subjects, it is the wish and intention of Government that in revising the existing settlement the efforts of the Revenue-officers should be chiefly directed not to any general and extensive enhancement of the *jama* but to the objects of equalizing the public burthens, and of ascertaining, settling and recording the rights, interests, privileges and properties of all persons and classes owning, occupying, managing or cultivating the land, or gathering or disposing of its produce, or collecting or appropriating the rent or revenue payable on account of land, or the produce of land, or paying or receiving any cesses, contributions or perquisites to or

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The powers conferred by Bengal Regulation 7 of 1822 and amending enactments on a Collector making a settlement of land-revenue are exercisable also by Commissioners appointed under the Village Chaukidari Act, 1870 (Ben. Act 6 of 1870), inquiring into the question what lands were, before the passing of that Act, assigned for the maintenance of an officer appointed to keep watch and report crime to the police—see Bengal Act 6 of 1870, s. 60, in Vol. II of this Code.

The application of Ben. Reg. 7 of 1822 is barred in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 768; and,

the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, *post*, p. 700.

**PARTIAL REPEAL.**—The following portions of Ben. Reg. 7 of 1822 were repealed by the Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1833 (2 of 1833), ss. 2 and 3 (noted), *post*, p. 299, namely:—

(1) so much as prescribes, or has been understood to prescribe, that the amount of *jama* to be demanded from any *malik* shall be calculated on an ascertainment of the quantity and value of actual produce, or on a comparison between the costs of production and value of produce," and

(2) "so much as prescribes, or has been understood to prescribe, that the judicial investigation into and decision on questions of disputed private claims shall be conducted simultaneously with the ascertainment of and determination on the amount of the Government demand."

**DURATION OF SETTLEMENTS.**—As to the period during which Collectors, etc., are to be considered to be engaged in making and revising settlements under this Regulation, see the Bengal Land-revenue Settlement Regulation, 1828 (4 of 1828), *post*, p. 287.

[2] The words "the Ceded and Conquered Provinces, including," which were repealed by the Amending Act, 1893 (1 of 1893), are omitted.

[3] The words "for continuing, with certain exceptions, the existing leases within the said Provinces for a further term of five years," which were repealed by the Amending Act, 1891 (12 of 1891), are omitted.

[4] *i.e.*, the 1st September, 1822.

[5] The portion printed in italics is obsolete, Bengal Regulation 7 of 1822 having been repealed in the North-Western Provinces by the N.-W. P. Land-revenue Act, 1873 (18 of 1873).

## (Sec. 1.)

from any persons resident in, or owning, occupying or holding parcel of, any village or *mahal* .

And whereas, with these views and intentions, the Governor General in Council has considered it to be expedient and proper, with the exception hereinafter specified, to continue the existing assessment in all cases in which the settlement has been formed with *zamindars* or other persons acknowledged as proprietors or possessors of a permanent interest in the *mahals* for which they may have engaged, until a new settlement can be made, combining, with the revision of the Government *jama* and the deliberate investigation of the facts by the determination of which its amount must be regulated, a full inquiry into, and a careful settlement of, the rights and interests of all classes connected with the land :

And whereas the same principles are applicable to the district of Cuttack, [*the pargana of Pataspur and its dependencies*,] of which the settlement will expire with the present " *Amlī* " year<sup>[1]</sup> :

And whereas it has appeared expedient to make special provision for the early settlement of \* \* \*<sup>[2]</sup> the *pargana* of Pataspur and its dependencies :

\*<sup>[3]</sup>.

And whereas it is the desire of Government that the proceedings held, and the records formed, by the Collectors when making settlements or otherwise specially employed in conducting inquiries of the above nature should be such as that all demands, claims and suits may be adjudged and determined according to the facts therein stated, until the same shall have been formally altered, or it shall be shown, by the result of a full investigation in a regular suit, that the proceeding or record of the Collector was erroneous or incomplete :

And whereas it is necessary to declare and define the powers and authority to be vested in Collectors in the conduct of the said inquiries, and the adjustment of the differences arising out of or made known by them :

And whereas it further appears advisable that the revenue-officers should in certain cases be vested with authority judicially to receive,

[1] i.e., the 2nd September, 1822.

[2] The words " the district of Gorakhpur, the *chakla* of Azamgarh," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[3] Portion relating to " the Conquered Provinces " and " the Province of Bundelkhand, " which was repealed by *ibid.*, is omitted.

## (Sec. 2.)

hear, investigate and determine suits, claims and demands of the above description :

And whereas it appears to be expedient to declare and explain the views and intentions of Government relative to the rights to be enjoyed and exercised by the *sadar malguzars* or persons admitted to engage for the payment of the Government revenue, and by persons collecting the rents of the land or revenue of Government, without being subject to the payment of any portion of it to the public treasury, such as *jagirdars* and other owners or managers of *lakhiraj* lands; and it is particularly necessary, in the case of estates held in *pattidari* or *bhaiya chdra* tenure, to make further provision for protecting the sharers who have not been admitted to engagement with Government against the encroachments of the *sadar malguzar*, and likewise to secure the latter against the consequences of the embezzlement or misappropriation by the former of the funds whence the Government revenue ought to be discharged ;

For the purposes and objects above specified the following rules have been enacted, to be in force \* \* \* [1] in [the district of Cuttack,] the *pargana* of Pataspur and its dependencies.

2. *First to Fifth.* (*Extension of existing settlements in Ceded Provinces and Cuttack; proclamation of proposed extension; Gorakhpur and Azamgarh excluded; existing leases in Pataspur to continue from year to year.*) Rep. by the Repealing Act, 1874 (16 of 1874.)

*Sixth.* \* \* \* [2] if any *zamindar* or other *malguzar* [3] acknowledged as the proprietor or possessor of a permanent interest in the *mahal* for which he has engaged] who may now or hereafter be under engagement for the payment of the revenue demandable by Government on account of any *mahal*, shall be allowed by the Revenue authorities to continue in the management of such *mahal* after the expiration of such engagement, and shall do or direct any act relative to the cultivation or management of such *mahal*, or the settlement, assessment or collection of the rents of such *mahal*, in or on account of any year subsequent to the term of such engagement, such *zamindar* or other *malguzar* aforesaid shall be held to be responsible on account of such year for the same revenue as may have been demandable from him for the year preceding, unless otherwise specially agreed upon :

General rule relative to *zamindars* holding on after expiration of their leases.

[1] The words "from the date of their promulgation, throughout the Ceded and Conquered Provinces," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[2] Formal words which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[3] These words in square brackets in s. 2 (6) were substituted for the words "as aforesaid" by the Amending Act, 1903 (1 of 1903), Sch. II—see post, p. 634.



## (Sec. 3.)

Provided further that it shall be competent for Collectors or other officers exercising the power of Collector<sup>[1]</sup> with the sanction of the Board<sup>[2]</sup> or Commissioner to whom they may be subordinate, at any time, not being more than six months previous to the expiration of a settlement, to call upon the *zamindars* or other *malguzars* as aforesaid to declare whether or not they are willing to continue their engagements for the ensuing year; and, if such *zamindars* or other *malguzars* shall not forthwith notify their refusal to do so they shall be held to have agreed to such an extension of their leases at the existing assessment, and so on, from year to year, as aforesaid.

*Zamindars* or other *malguzars* who may be allowed to hold on from year to year shall not be chargeable with any additional revenue on account of any year, unless the Collector or other officer exercising the powers of Collector<sup>[1]</sup> shall notify his intention to revise the assessment on or before the commencement of such year, unless where otherwise specially provided.

Settlements  
now made.

3. With respect to estates which are at present let to farm, a settlement thereof shall be made on the expiration of the existing leases for such a period as the <sup>[3]</sup>[Local Government] may direct.

A preference shall be given to the *zamindars* or other persons possessing a permanent property in the *mahals*, if willing to engage for the payment of the public revenue on reasonable terms :

Provided also that, in cases wherein such *mahals* may be let in farm, the term of the lease granted to the farmers shall not exceed twelve years.

The above rules shall likewise be applicable to estates now held *khas*.

So in any case wherein the *zamindars* and other proprietors may refuse to continue their existing engagements, or to enter into new engagements, on equitable terms, it shall be competent to the Revenue-authorities to let the lands in farm for such period, not exceeding twelve years, as the <sup>[3]</sup>[Local Government] shall appoint, or to assume the direct management of them, and to retain them under *khas* management during the period aforesaid or such shorter period as may be judged proper :

Provided further that, if in any case it shall appear to the Revenue-authorities that the continuance or admission of any *Raja*, *zamindar*,

[1] As to the exercise of the functions of Collectors by other officers, see s. 35, *post*, p. 236.

[2] As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[3] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 634.

(Secs. 4-5.)

*talukdar* or other person who may have engaged, or may claim to engage, for any *mahal* or *mahals*, in or to the management of such *mahal* or *mahals*, would endanger the public tranquility or otherwise be seriously detrimental, it shall be their duty to report the circumstances to Government, and it shall be competent to the [1][Local Government,] [2][by notification in the local official Gazette], to cause such *mahal* or *mahals* to be held *khas* or let in farm, for such term as may appear expedient and proper, not exceeding the period above specified.

4. In admitting particular parties to engage it was in no degree the intention of Government to compromise private rights or privileges, or to vest the *sadr malguzars* with any rights not previously possessed by them, excepting in so far as their interest in the land for which they may have engaged might be improved by the limitation of the Government demand, or otherwise by the resignation in their favour of rights previously vested in Government itself, or as it may have been found necessary, with a view to the punctual realization of the public dues, to vest the *sadar malguzar*, by special Regulation, with authority of distraint, or other powers of coercion over the under-tenants.

Admission of particular persons to engage for payment of revenue, not to bar Revenue-officers from interfering to adjust rights of other persons or classes.

On the contrary, it is the anxious desire of Government, and the bounden duty of its officers, to secure every one in the possession of the rights and privileges which he may lawfully possess or be entitled to possess.

In pursuance of this principle, it is hereby declared and enacted that nothing in the above provisions for extending the existing leases, or in the stipulations of the existing settlements, do or shall be construed to bar the Revenue-officers, duly empowered in that behalf, from interfering to adjust the respective rights of the *sadar malguzars* and their under-tenants; nor shall any claims to a remission or abatement of revenue be admitted on the ground of any decision or order passed in that behalf; but, if such decision or order shall operate materially to reduce the profits derived by any *zamindar* or *malguzar* from the *mahal* owned or managed by him, it shall be competent for such *zamindar* or *malguzar* to relinquish his engagements, and the Revenue-officers shall in such case proceed to make a settlement of the *mahal de novo*.

5. (*First.*—*Repeal of provisions relative to malikana and nunkar.*)  
*Rep. by the Amending Act, 1903 (1 of 1903).*

[1] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 634.

[2] The words "by an Order in Council," in the original text, are to be read as if the words "by notification in the local official Gazette" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 634.

## (Sec. 5.)

*malikana*  
to be  
allowed to  
proprietors  
of estate  
farmed or  
held *khas*.

[1] *Second*.—The proprietors of estates let in farm or held *khas* shall be entitled to receive an allowance of *malikana*, at such rate as the Board<sup>[2]</sup> \*<sup>[3]</sup> or other authority exercising the powers of that Board<sup>[2]</sup> may determine, anything in the existing Regulations notwithstanding: the said *malikana* to be apportioned in cases in which several proprietors may have heretofore held an estate under one common assessment, whether in joint tenancy or otherwise, according to the shares of each respectively:

Provided also that the *malikana* allowance granted to the proprietor or proprietors of any *mahal* shall not in any case be less than five *per cent.* on the net amount realized by Government from the lands; nor shall it exceed ten *per cent.* on that amount without the special sanction of the <sup>[4]</sup> [Local Government]:

Provided further that, if the said proprietors shall in any case be in the receipt of any perquisite or the profits of any lands in lieu of the *nankar* formerly granted to them by the Native Governments or otherwise, in consideration of their proprietary tenure, the amount of such allowance shall be deducted from the *malikana* to which they are by this section declared to be entitled:

Provided also that this rule shall not apply to such *zamindars* as may continue in the occupancy of their tenures whilst the *mahal* in which they are included is held *khas* or farmed, or of any part of them, that is to say, *zamindars* who may cultivate or lease their lands and pay the revenue to the farmer or Government officer; nor, without the special sanction of Government, to any *malguzar*, *zamindar* or other proprietor or holder of land who may directly or indirectly continue to draw any allowance from the *raiyyats* of the lands farmed or held *khas*:

Provided also that *malguzars*, not being actual proprietors of the land included in the estate for which they may have formerly been under engagements, though recorded in the accounts of past settlements as *zamindars*, *talukdars* or the like, or being proprietors of a part only of such land, shall not receive the above allowance on the *jama* of the estate, but shall receive such allowance in lieu of their title of management as it may appear to Government to be equitable to assign, in addition

[1] For an explanation of the rules in s. 5 as to *malikana*, see the Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1833 (9 of 1833), s. 11, *post*, p. 300.

[2] As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[3] The words "of Commissioners," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[4] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 634.

## (Sec. 6.)

to the *malikana* to which they may be entitled on account of any lands held by them in actual property, and of which they may not retain the occupancy: and no *malikana* shall be granted to any *sadar malguzar* on account of lands the occupants of which may deny his right of property, until he shall have established his right by a regular suit in a Court of Justice, or to the satisfaction of the Board<sup>[1]</sup>. But in such cases such provision will be made for the intermediate support of the party as the <sup>[2]</sup>[Local Government] may, on the recommendation of the Board, see fit to direct.

*Third.*—Provided also that, if any *zamindar* or *sadar malguzar* shall have been called upon by a Collector or other officer exercising the powers of a Collector<sup>[3]</sup> to state the highest amount of *jama* for the payment of which he may be willing to engage, and shall have stated the same accordingly, the sum so stated by such *zamindar* or *sadar malguzar*, and not the *jama* ultimately realized by Government, shall form the basis on which his *malikana* allowance shall be adjusted; and in such case it shall and may be lawful for the Revenue-authorities to limit the said allowance to five *per cent.* on the said sum, or to a portion thereof, according to the extent of the proprietary interest possessed by the said *zamindar* or *sadar malguzar*:

*Zamindars*  
may be  
called upon  
to state  
*jama* for  
which they  
are willing  
to engage.

Provided also that, if a *zamindar* or *sadar malguzar*, when so called upon, shall fail to specify or tender any sum as aforesaid, then and in that case the net revenue derived by Government from the *mahal*, on account of the year preceding that in which the Collector or other officer aforesaid<sup>[3]</sup> may make the said requisition, shall be taken as the sum by which the amount of *malikana* (not being less than five, nor more than ten, *per cent.* on the same) shall be adjusted.

**6. First.**—In cases wherein the existing engagements may be continued under the rule contained in section 2 of this Regulation, it shall and may be lawful for the Collectors<sup>[3]</sup>, with the sanction of the Board<sup>[1]</sup>, \* \* <sup>[4]</sup> to enter at any time in the course thereof on a revision of the settlement notwithstanding such continuance of the existing leases, and to adopt such measures as may be requisite for

Revenue-officers may revise settlement of estates of which existing leases shall be extended

[1] As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[2] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 634.

[3] As to the exercise of the functions of Collectors by other officers, see s. 35, *post*, p. 236.

[4] The words "of Commissioners," in s. 6 (1), which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

## (Sec. 7.)

under section 2, during continuance of such extended lease. ascertaining and determining the extent and produce of the lands, and the amount of *jama* properly demandable therefrom, and for procuring and recording the fullest possible information in regard to the rights, interests, privileges and properties of the agricultural community, and to determine the same, with the same powers and authority as they now are or may hereafter be entitled to exercise in forming the settlement of estates open to re-assessment.

Revision of settlement how made. *Second.*—The said revision of the settlement shall be made village by village and *mahal* by *mahal*; and such number of *mahals* shall be revised in each year, as the Board<sup>[1]</sup>, under the orders of the <sup>[2]</sup>[Local Government], may direct.

Revision of settlement not to operate to alter *jama* payable on account of lands included in existing engagements. *Third.*—Such revision of the settlement shall not operate to disturb the existing engagements during the period for which they may be continued under the provisions of section 2 of this Regulation in so far as such engagements relate to the amount of *jama* demandable by Government; but the said engagements shall be held and considered to include only such villages and lands as may be specified in the proceedings or accounts of the settlement last concluded; and, if on the revision of the settlement of any *mahal* it shall be found that there has been any material error or concealment of lands belonging to such *mahal*, the Collector<sup>[3]</sup> shall be authorized, subject to the orders of the Board<sup>[1]</sup>, separately to assess the lands so withheld from the knowledge of the Revenue-authorities, in the same manner and with the same powers as he would assess an unsettled *mahal*:

Provided also that nothing in this or the preceding sections shall be construed to prevent the Revenue-officers from passing and enforcing such orders in regard to the rights and interests to be enjoyed by the different classes of persons connected with any *mahal*, during the period for which the existing settlement has been extended, as they may or shall be authorized to pass or enforce when adjusting the assessment of an unsettled *mahal*.

*Fourth.*—(Revision of settlement in Conquered Provinces and Bundelkhand.) Rep. by the Amending Act, 1903 (1 of 1903).

Leases to be granted on revision of settlement. **7. First.**—When a Collector<sup>[3]</sup> \* \* <sup>[4]</sup> in the Province of Cuttack shall have completed the revision of the settlement of any *mahals* under

[1] As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[2] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 634.

[3] As to the exercise of the functions of Collectors by other officers, see s. 35, *post*, p. 236.

[4] The words "in the Ceded Provinces or," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

## (Sec. 7.)

the rules contained in the preceding section, it shall and may be lawful for him, subject to the orders of the Board<sup>[1]</sup> \* \* \*<sup>[2]</sup> and of Government, to grant to the proprietors, if willing to engage on adequate terms, renewed leases for such further term of years subsequent to the year 1234<sup>[3]</sup> *Fasli* or *Amlī* as the <sup>[4]</sup>[Local Government] may direct.

*Second.*—The assessment to be demanded on account of the years *Jama* for subsequent to the year 1234 *Fasli*<sup>[3]</sup> to which leases renewed as above may extend, shall be fixed with reference to the produce and capabilities of the land as ascertained at the time when the revision of the settlement shall be made<sup>[5]</sup> unless under special circumstances justifying a prospective enhancement of the Government demand : years subsequent to 1234, how adjusted.

Provided also that the amount of such assessment shall not be raised above that of the present *jama*, unless it shall clearly appear that the net profits to be derived from the land by the *zamindars* and others who may be entitled to share in the profits arising out of the limitation of the Government demand will exceed one-fifth of that amount; and, in cases wherein any increase may be demanded, the assessment shall be so regulated as to leave the *zamindars* and others aforesaid a net profit of twenty *per cent.* on the amount of the *jama* payable by or through them respectively : no abatement on the existing *jama* will be allowed unless on the clearest grounds of necessity.

*Third.*—The *patlas* granted on such revised settlements shall be held only to secure the *malguzars* from further demand during the term of their respective leases, on account of the lands specified in it, or described in the settlement *rubakari* of the Collector<sup>[6]</sup> with such allowance for error as may be distinctly declared at the time of settlement. Pattas granted on revised settlement to cover only lands specified.

*Zamindars* and other persons entering into engagements will be required therefore to afford the fullest and most correct information in regard to the *raqba* of the *mahals* for which they may engage.

*Fourth.*—(Grant of renewed leases in Conquered Provinces and Bundelkhand.) Rep. by the Amending Act, 1903 (1 of 1903).

[1] As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[2] The words "of Commissioners," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[3] i.e., A.D. 1826.

[4] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 634.

[5] As to the partial repeal of this provision by the Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1833 (9 of 1833), s. 2, see foot-note on p. 203, *ante*.

[6] As to the exercise of the functions of Collectors by other officers, see s. 35, *post*, p. 236.

(Secs. 8-9.)

Power to  
postpone  
final  
settlement  
until  
expiration of  
current  
leases.

*Fifth.*—If any *zamindar* or other *sadar malguzar*, the settlement of whose estate may be revised under the above rules, shall refuse to enter into suitable engagements for a further period beyond the term of the then current lease, or if after such revision the Revenue-authorities shall under any other circumstances deem it expedient to postpone taking further engagements for the payment of the revenue of any *mahals* until the expiration of the current leases, it shall be competent to them to do so; and in such case the several rules contained in section 3 of this Regulation, relative to estates of which the settlement will expire with the present year, shall on the expiration of the said leases be and be held applicable to such *mahals*.

Rules  
applied to  
estates in  
Gorakhpur,  
etc.

*Sixth.*—The same rules shall also be applicable to the several *mahals* within \* \* \* [1] the *pargana* Pataspur and its dependencies, as they may respectively, become, or be declared, open for re-settlement.

Letting of  
excess  
waste-  
lands.

8. Where the waste-land belonging to or adjoining any *mahal* is very extensive, so as considerably to exceed the quantity required for pasturage, or otherwise usefully appropriated, it shall be competent to the Revenue-officers to grant leases for the same to any persons who may be willing to undertake the cultivation in perpetuity, or for such periods as the [2] [Local Government] shall determine; and to assign to the *zamindars* or others who may establish a right of property in the lands so granted an allowance equivalent to ten *per cent.* on the amount payable to Government by the lessees, in lieu and bar of all claims to or in the waste-lands, so granted, or such other perquisites or privileges as by the custom of the country they may appear in such cases entitled to receive.

Allowance to  
*zamindars*.

Investiga-  
tions by  
Collectors  
making or  
revising  
settlements.

[3] 9. *First.*—It shall be the duty of Collectors [4] and other officers exercising the powers of Collectors, on the occasion of making or revising settlements of the land-revenue, to unite, with the adjustment of the assessment and the investigation of the extent and produce of the lands, the object of ascertaining and recording the fullest possible information in regard to landed tenures, the rights, interests and privileges of the various classes of the agricultural community.

For this purpose their proceedings shall embrace the formation of as accurate a record as possible of all local usages connected with landed

[1] The words "the district of Gorakhpur, the *chakla* Azamgarh" which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[2] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 634.

[3] As to the partial repeal of s. 9 by the Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1833 (9 of 1833), s. 3, see foot-note headed "Partial Repeal" on p. 203, *ante*.

[4] As to the exercise of the functions of Collectors by other officers, see s. 35, *post*, p. 236.

## (Sec. 9.)

tenures, as full as practicable a specification of all persons enjoying the possession and property of the soil, or vested with any heritable or transferable interest in the land or the rents of it, care being taken to distinguish the different modes of possession and property, and the real nature and extent of the interests held, more especially where several persons may hold interests in the same subject-matter of different kinds or degrees.

This record shall, in *pattidari* or *bhaiya chara* villages or the like, include an accurate register of all the co-parceners, not merely the heads of divisions, such as the *pattis*, *thoks* or *behris*, but also as far as possible of every person who occupies land, disposes of its produce or receives rent as proprietor or as agent for one or more proprietors holding land and disposing of its produce, or receiving the rents of it in common, with a detailed statement of the interior arrangements adopted by the brotherhood for the distribution of the profits derived from sources common to the co-parcenership where any such exist, and for determining the share of the Government *jama* and of the village-expenses which each parcener is to contribute, or the other modes in which the engaging parcener or intermediate *pattidars* and *behridars* collect from the cultivators.

A record shall likewise be formed of the rates per *bigha* of each description of land or kind of produce demandable from the resident cultivators not claiming any transferable property in the soil, whether possessing the right of hereditary occupancy or not, and the respective shares of the *sadar malguzar* or other manager, and the cultivator, in lands cultivated under *kankut*, *batai* or similar engagements, with a distinct specification of all cesses or extra collections made by the *malguzar* or village-manager, or other.

The names of all the village-*patwaris* and village watchmen shall also be registered, with a statement of the amount and nature of the allowance assigned them.

And all *lakhiraj* tenures shall be carefully recorded, with a specification of the nature of the tenure.

The information collected on the above points shall be so arranged and recorded as to admit of an immediate reference hereafter by the Courts of Judicature, it being understood and declared that all decisions on the demands of the *zamindars* shall hereafter be regulated by the rates of rent and modes of payment avowed and ascertained at the settlement, and recorded in the Collector's proceedings until distinctly altered by mutual agreement, or after full investigation in a regular suit: and all cesses or collections not avowed and sanctioned, nor taken into account in fixing the Government *jama*, shall be held illegal and unauthorized, unless now or hereafter specially sanctioned by Government



## (Sec. 10.)

Collectors,  
etc., may  
grant  
*pattas* to  
*mufassal*  
*zamindars*  
and *rai-yats*.

Power to  
take engage-  
ments for  
revenue  
without  
completing  
detailed  
inquiry.

Power to  
determine  
which of  
several  
holders of  
differing  
interests,  
having  
separate  
properties  
in same  
land,  
shall be  
admitted

*Second.*—Provided also that it shall be competent to Collectors<sup>[1]</sup> and other officers as aforesaid (subject to the orders of the Board<sup>[2]</sup> \* \*<sup>[3]</sup> to grant *pattas* to the several *mufassal zamindars* and *rai-yats* or other owners or occupants of land, for the land owned or occupied by them, specifying the amount to be paid by them, and all the conditions attaching to their tenure; and a register of all *pattas* so granted shall form a part of the *rubakari* of settlement.

*Third.*—Provided, however, that, if from the number of estates of which the leases may at once expire in any district, or from any other special cause, it shall be found necessary, for the security of the Government revenue, to take engagements from any *zamindar*, *malguzar* or farmer, without completing the detailed inquiries above directed, it shall be competent to the <sup>[4]</sup>[Board] of Revenue<sup>[2]</sup> or other authority exercising the powers of <sup>[5]</sup>[that Board] to cause engagements for the revenue to be taken in the manner heretofore in use, reporting the circumstances to the <sup>[6]</sup>[Local Government], but the term of the engagements so taken shall not exceed five years, and the rules relative to the revision of the settlements of *mahals* of which the existing leases have been extended under the provisions of section 2 of this Regulation shall be equally applicable to estates for which such engagements shall be taken.

**10. First.**—Of several parties possessing separate heritable and transferable properties in any parcel of land or in the produce or rent thereof, such properties consisting of interests of different kinds, it shall be competent to the <sup>[6]</sup>[Local Government] to determine and direct which of such parties shall be admitted to engage for the payment of the Government revenue, due provision being made for securing the rights of the remaining parties.

It is further hereby declared and enacted that it is and <sup>[7]</sup>[shall be] competent to the Local Government or such other authority to whom

[1] As to the exercise of the functions of Collectors by other officers, *see* s. 35, *post*, p. 236.

[2] As to the present constitution and powers of the Board of Revenue, *see* the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[3] The words "of Commissioners," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[4] This word "Board" was substituted for the word "Boards" by the Amending Act, 1903 (1 of 1903), Sch. II—*see post*, p. 634.

[5] The words "that Board" were substituted for the words "such a Board" by *ibid*.

[6] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—*see* the Amending (Act, 1903 (1 of 1903), Sch. II, *post*, p. 634.

[7] The words "shall be competent to the Local Government or such other authority to whom the power to confirm settlements may be delegated by the Local Government by notification in the local official Gazette" were substituted for the words "shall be competent to the Governor General in Council" by the Bihar and Orissa Decentralization Act, 1916 (B. & O. Act 3 of 1916), s. 2, Sch., Pt. I—*see* Vol. III of this Code.

## (Sec. 10.)

the power to confirm settlements may be delegated by the Local Government by notification in the local official Gazette] in confirming the settlement of any *mahal* in perpetuity or for a term of years, to determine and prescribe the manner and proportion in which the net rent or profit arising out of the limitation of the Government demand shall be distributed among the different parties possessing an interest in the lands appertaining to such *mahal* or in the rent or produce of such lands or *mahal*.

to engage, and to prescribe distribution of profit resulting from limitation of *jama*.

*Second.*—In cases wherein any land appertaining to a *mahal* hitherto recognized as the *taluk*, *zamindari* or the like, of one or more *sadar malguzars*, may be owned or occupied by other persons holding under the *sadar malguzar* and possessing an heritable and transferable property therein or an hereditary right of occupancy subject to the payment of a fixed rent, or of a rent determinable by a fixed principle, if the title of the said *sadar malguzar* to engage for the revenue be upheld, and generally in cases wherein the tenure of an intermediate *malguzar* or manager between the Government and the proprietors or hereditary occupants of the soil may be maintained, whether the Government revenue be collected from the *zamindar*, *talukdar* or other hereditary intermediate *malguzar*, or the *mahal* be farmed or held *khas*, it shall be competent to the Collector<sup>[1]</sup> or other officer who may be employed in adjusting the *jama* to be assessed on such *mahal*, with the sanction of the Board<sup>[2]</sup> previously obtained and subject to the orders and directions of that authority, to make a *mufassal* settlement with each of the proprietors or occupants aforesaid for the land possessed by him, and to grant such proprietors or occupants *pattas* defining the conditions on which they are to hold their land, whether subordinate to the *sadar malguzar* or to the farmer or officer of Government employed in the *khas* management; and in all such cases, if engagements for the Government revenue of the *mahal* be taken from the intermediate hereditary *malguzar*, the particulars of the *mufassal* settlement, when approved by the Board<sup>[2]</sup>, shall be endorsed on the *patta* to be granted to the *sadar malguzar*, or shall be so incorporated with the engagement taken from him as to form part of the same.

*Mufassal* settlements in cases where title of intermediate manager between Government and proprietors or hereditary occupants of soil are maintained.

*Third.*—In cases in which two or more persons may possess a joint property in any village, *mahal* or parcel of land, or in the rent or produce of any village, *mahal* or land, or in any part of such village, *mahal*, land, rent or produce, the property of such persons consisting of interests of the same kind, whether of the same extent or otherwise, as well as in cases wherein such property in any *mahal*, village, land,

Settlement where several persons hold common property subject to common obligations.

[1] As to the exercise of functions of Collectors by other officers, see s. 35, *post*, p. 236.

[2] As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913, (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

## (Sec. 10.)

produce or rent may be separately possessed by parties subject by prescriptive usage to common obligations, whether existing or contingent, it shall be competent to the Collector or other officer exercising the powers of Collector<sup>[1]</sup>, subject to the orders and directions of the Board<sup>[2]</sup> and of the <sup>[3]</sup>[Local Government], either to make a joint settlement with the parties collectively or a majority of them, or with an agent appointed by them or a majority of them, or to select one or more of them to undertake the management of the *mahal* as *sadar mal-guzars*, due advertence being had to the wishes of all the co-parceners, and to the past custom of the village or villages comprised in the *mahal*.

When joint settlement to be made, parties how summoned.

*Fourth.*—When it shall be determined to make a joint settlement for any village, *mahal* or parcel of land with the parties possessing therein a joint property as aforesaid, the Collector or other officer<sup>[1]</sup> making the settlement shall give notice of his intention, by a written proclamation to be stuck up in some public place within the village, *mahal* or land, and shall require all persons possessing therein a property as aforesaid to attend, either in person or by representative duly authorized in the matter, within a reasonable period, at a stated place and time, and to declare their agreement or non-agreement to the *jama* proposed to be assessed on the village or land.

Persons willfully failing to attend when summoned, to be bound by decision of majority present.

*Fifth.*—If any person or persons, when summoned as above, shall refuse, neglect or omit to attend, either in person or by representative, such person or persons shall be held to be bound by the decision of the majority of those who may attend, in agreeing or disagreeing to the *jama*, and his or their interest and estate shall, unless otherwise specially allowed, be held responsible for the Government revenue, and be liable to sale in the event of any arrear accruing on account of the settlement.

Treatment of parceners not joining in settlement.

*Sixth.*—If any person or persons shall attend and shall object to the *jama* proposed to be assessed, then, should a settlement be made with the other parties present, the objecting parties shall be left in the enjoyment of the same rights and interests as they would enjoy in the event of the *mahal* being farmed or held *khas*: and, in so far as regards the lands to which such rights and interests attach, the other parceners, if their engagements be extended thereto, shall be considered farmers of the Government revenue to hold the same under leases of such term as

<sup>[1]</sup> As to the exercise of functions of Collectors by other officers, see s. 35, *post*, p. 236.

<sup>[2]</sup> As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

<sup>[3]</sup> The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 634.

## (Sec. 10.)

may be determined and agreed upon under the general rules applicable to lands for which the proprietors may refuse to engage.

*Seventh.*—When any *mahal* or portion of a *mahal*, held by a number of cultivating proprietors in *pattidari* or *bhaiya chāra* tenure or the like, shall be let in farm or held *khas*, the rent demandable from the proprietors of such *mahal* or portion of *mahal*, on account of the land occupied and cultivated by themselves, shall be adjusted by the rates payable by *raiya*s or other resident cultivators not having an heritable and transferable property in the soil, for lands of a similar description in the same or in the adjoining villages, with a deduction of five *per cent.*, on account of *malikana*, or such other rate, not being less than five *per cent.*, as Government may determine.

Rates of rent of cultivating proprietors of lands of which revenue collected *khas* or farmed.

*Eighth.*—When it shall be determined to make a settlement of a *mahal* of the above description with one or more of the parceners selected to manage, collect and account for the public revenue as *sadar malguzar*, then and in that case the interests of the non-engaging parceners shall not be held answerable for the default of the *sadar malguzars*, save and except in so far as may be specifically provided.

Liability for default of non-engaging parceners when settlement of *mahal* made with one or more of them as *sadar malguzar*.

Such parceners shall, until regularly separated, continue to hold their lands as subordinate proprietors, subject to the payment of rent or revenue to the *sadar malguzar* at the rates and in the mode heretofore in use, excepting in so far as that usage may be affected by the determination of Government in regard to the distribution of the net rent or profit derived from the limitation of the Government demand, or by the rules now in force or hereafter to be enacted, for vesting the *sadar malguzars* with specific powers over the subordinate tenants in the collection of the rent or revenue demandable from them.

The responsibility attaching to the persons selected as *sadar malguzars* and the conditions under which they are to hold that title of management will in each case be specifically declared at or after the time when the settlement is confirmed.

The conditions and limitations under which the subordinate proprietors shall be admitted to separate engagements will also be similarly declared.

*Ninth.*—Provided further that, in all cases wherein different parcels of land belonging to any *mahal* may be separately owned and occupied by different proprietors or by different bodies of proprietors, it shall be competent to the [1][Board] of Revenue or other authority exercising

Parcels separately owned and occupied may be separately settled.

[1] This word "Board", in s 10 (9), was substituted for the word "Boards" by the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 634.

## (Secs. 11-12.)

the powers of that Board<sup>[1]</sup> to cause a separate settlement to be made for the land owned and occupied by each proprietor or by each body of proprietors, and each parcel of land for which a separate settlement may be so made shall be held exclusively responsible for the revenue assessed upon it :

Power to partition and to settle separately with each proprietor.

Provided also that, if the several parties possessing a joint property or separate properties subject to a common obligation as aforesaid, or any of them, shall apply to a Collector or other officer<sup>[2]</sup> making or revising a settlement to have separate possession of their several share or shares in such joint property, or to be admitted to separate engagements, it shall be competent to such Collector or other officer,<sup>[2]</sup> with the sanction of the Board<sup>[1]</sup> or other authority to which he may be subordinate, to make a partition of the property among the different parties according to their respective interests, and to make a separate settlement with each of them or with such as may desire to enter into separate engagements.

Proprietors excluded from engagements may have their names registered.

*Tenth.*—In all cases wherein any proprietors may be excluded from engagements the Collector<sup>[2]</sup> shall be careful to let it be known that all persons possessing a property in the *mahal* are entitled to have their names recorded in the *rubakari* of settlement, with the amount or rate of the assessment demandable from each.

Collectors forming such registry to proceed on basis of actual possession.

**11. First.**—The Collector's<sup>[2]</sup> proceedings in forming the registry above directed shall be founded on the basis of actual possession, and that officer shall, in every instance, be careful to record the precise nature of the authority on which the entries in his books may be made.

In conformity with the above principle it shall be competent to the Collectors<sup>[2]</sup> or other officers when making or revising settlements, or otherwise deputed to investigate and determine the circumstances of any *mahal*, and the nature of the tenures connected with it, to correct the errors or omissions of former settlements by admitting to engagements or entering on the public records the names of the persons found in the *bonâ fide* possession of land or in the receipt of rent under a proprietary title; and in such cases the Collector<sup>[2]</sup> will hold an official proceeding, explaining fully the grounds on which he may act.

In estates held under *pattidari*, *bharya chara* or like tenure, Collectors

<sup>[3]</sup>**12. First.**—In cases in which the proportion of the Government *jama* and village-expenses payable by each proprietor and by each body of proprietors comprised in several *pattis*, *behris* and other divisions

[1] As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[2] As to the exercise of functions of Collectors by other officers, see s. 35, *post*, p. 236.

[3] As to the partial repeal of s. 12 by the Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1833 (9 of 1833), s. 2, see foot-note headed "Partial Repeal" on p. 203, *ante*.

## (Sec. 12.)

of an estate held under *pattidari* or *bhaiya chāra* tenure or the like may have been originally fixed on a measurement of the lands occupied by each, with reference to the quantity in cultivation, and may be liable by the usage of the country to periodical adjustment on the same principle, if the Collector<sup>[1]</sup> or other officer making or revising the settlement shall be satisfied, by examination of the *patwaris'* accounts or otherwise, that the contributions paid by any proprietor, or body of proprietors as aforesaid, are materially in excess of the amount justly demandable from them, it shall be competent to him, with the previous sanction of the Board,<sup>[2]</sup> to cause a new distribution to be made of the revenue and charges payable by each, with reference to the above principle, and to such resolutions as Government may have passed relative to the apportionment of the net rent or profits arising out of the limitation of the Government demand, and in the performance of this duty to employ the *kanungo*, and such person or persons as he may judge it advisable to appoint, and to settle the *jama* payable by the different parties according to the award of such person or persons, or otherwise as shall appear to be just and equitable.

may re-allot  
revenue and  
charges  
payable by  
several  
parceners,

*Second.*—In like manner, in cases in which the several proprietors shall be entitled not only to an adjustment from time to time of the *jama* payable on account of the lands occupied by them, but likewise to a periodical partition of the land of the village, with reference to the share recorded as belonging to each, it shall be competent to the Collector<sup>[1]</sup> to cause a fresh partition of the lands and adjustment of the *jama* to be made as above prescribed, and at the same time to fix and declare the period from which the arrangement as finally settled is to have effect, and to adjust the claims of the parties relative to the revenue intermediately paid by them, as may appear equitable :

and in  
certain  
cases may  
make fresh  
partition of  
land.

Provided, however, that no such partition or adjustment shall be final until confirmed by the Board<sup>[2]</sup> \* \*<sup>[3]</sup> or other authority exercising the powers of that Board :<sup>[2]</sup>

Provided also, that, if any parties shall dispute the existence of the usage under which the partition of the lands shall have been made, and shall claim to be restored to possession of the lands which the Collector<sup>[1]</sup> may have transferred to another, or shall consider himself entitled to

Cases in  
which  
parties  
affected by  
Collector's  
decision may  
contest it in  
Court.

[1] As to the exercise of functions of Collectors by other officers, see s. 35, *post*, p. 236.

[2] As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[3] The words "of Commissioners," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

(Secs. 13-14.)

the benefit of a new partition of the lands comprised in the *mahal* to which he may belong, in any case in which the Collector<sup>[1]</sup> may have refused to order it, it shall be competent to the said party to bring a regular suit in the *Zila* Court against the person or persons to whom the land may have been transferred, or the person or persons who may resist the partition, to try the justness of the Collector's<sup>[1]</sup> decision; but, if the existence of the usage shall be admitted or established, it shall not be competent to the Courts of Judicature to question the accuracy of the partition of the land or adjustment of the *jama*;

On what points revenue-officer's decision conclusive.

and, whenever the decision of a Collector<sup>[1]</sup> for the partition of any land shall be set aside, it will of course belong to the Revenue-authorities to re-adjust the *jama* with reference to the interests of the parties as defined and settled by the final decision of the Courts of Judicature, and to the conditions of the tenure, and to any general or special resolution of Government relative to the distribution of the net rent or profit arising out of the limitation of the public assessment.

Collectors not to disturb possession unless specially authorized.

**13.** Collectors<sup>[1]</sup> and other officers exercising the powers of Collectors shall not, unless where specially authorized in the manner prescribed in this or some other<sup>[2]</sup> [law], do any act tending to disturb possession, but shall leave the *Adalat* to investigate in a regular suit all claims of persons not in possession but deeming themselves entitled to be so.

Collectors making or revising settlements may declare nature and extent of interests of persons occupying land.

<sup>[3]</sup>**14. First.**—Collectors<sup>[1]</sup> making or revising settlements shall, in cases in which any dispute may exist in regard to the nature of the tenure of any person occupying the soil, be competent to declare in an official proceeding, to be incorporated in the *rubakari* of settlement, the nature and extent of the interests actually possessed by such occupant, referring to the denomination heretofore applied to him only as one means of proof in regard to the nature of the interest, but stating at length, with specification of any examination he may take for his satisfaction, the grounds of his determination;

so also in cases of dispute regarding the extent of the interest belonging to any sharer in a village or villages held under *pattidari*, *bhaiya chāra* or the like tenure, such sharer having actual possession of a portion of such village or villages, or being in the actual receipt as proprietor of a share of the joint profits of the land, it shall be competent to the Collector<sup>[1]</sup> to decide the point in the first instance in his *rubakari* of

<sup>[1]</sup> As to the exercise of functions of Collectors by other officers, see s. 35, *post*, p. 236.

<sup>[2]</sup> The word "law," in s. 13, was substituted for the word "Regulation" by the Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 634.

<sup>[3]</sup> As to the partial repeal of s. 14 by the Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1833 (9 of 1833), s. 3, see foot-note headed "Partial Repeal" on p. 203, *ante*.

## (Sec. 14.)

settlement, and to enforce his decision, leaving the party who may deem himself aggrieved to seek redress by a regular suit in the Courts to try the right;

but nothing herein contained shall be construed to authorize the Courts to interfere with the decision of the Collector<sup>[1]</sup> in regard to the amount or proportion of *jama* to be assessed on any parcel of land, or in respect to the quantity and description of land, to be assigned in partition to the holder of any specific share of a joint estate.

*Second.*—The above rule shall not be construed to empower Collectors,<sup>[1]</sup> unless otherwise authorized, to take cognizance of any claim to receive a larger portion of the common profits than the claimant has hitherto enjoyed, or to hold a larger portion of the village or villages than he has hitherto occupied.

Cognizance of claims to larger profits or larger share of village, than hitherto.

*Third.*—The decisions passed by the Collectors<sup>[1]</sup> under the above powers, if not altered or annulled by the Board<sup>[2]</sup> or by Government, shall be maintained by the Courts, unless on investigation in a regular suit it shall appear that the possession held under such a decision is wrongful; and nothing herein contained shall be understood to authorize any Court to interfere with the decision of the Revenue-authorities relative to the *jama* to be assessed on any *mahal* or portion of a *mahal*, or to the extent and description of lands belonging to any *mahal* that may be assigned on the partition of the same to the several parceners concerned.

Maintenance by Courts of decisions of Revenue-officers.

Bar to interference by Courts.

*Fourth.*—If any person shall complain to a Collector<sup>[1]</sup> or other officer making or revising the settlement of any *mahal* that he has been wrongfully dispossessed from any lands, premises, crops, orchards, pasture-grounds, fisheries, wells, water-courses, tanks, reservoirs or the like, within such *mahal*, or of the rents, produce or profits of such lands, premises, etc., the like as aforesaid, or that he has been wrongfully disturbed in the possession thereof, it shall be competent to the Collector<sup>[1]</sup> or other officer aforesaid to inquire into the matter, and if the party so complaining shall appear to have been in possession in the year preceding that in which the complaint is brought, and there shall otherwise be reason to believe that he has been violently or wrongfully dispossessed or disturbed, it shall be competent to the Collector<sup>[1]</sup> to restore or confirm him, recording the grounds of his determination in a *rubakari*; and the opposite party shall in such case be left to bring a regular suit in Court to try the question of right.

Cognizance by Collectors of complaints of wrongful dispossession.

<sup>[1]</sup> As to the exercise of functions of Collectors by other officers, see s. 35, *post*, p. 236.

<sup>[2]</sup> As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.



## (Secs. 18-19.)

proprietors  
on behalf of  
*lakhirajdar*  
or *mukarraridar*.

hereditary and transferable property in the land or the produce or rent thereof, the Collector<sup>[1]</sup> or other officer, with the sanction of Government previously obtained, shall be authorized to conclude a settlement with them on behalf of the *lakhirajdar* or *mukarraridar* for such period as the <sup>[2]</sup>[Local Government] may direct, and shall grant to each of the said proprietors *pattas* defining the conditions on which they are to hold their lands subordinate to the *lakhirajdar* or *mukarraridar*.

It shall further be competent to the Collector,<sup>[4]</sup> under the orders of the Board,<sup>[3]</sup> \* \* <sup>[4]</sup> to fix and declare the amount of *malikana* or other proprietary allowance to be paid by such *lakhirajdars* or *mukarraridars* to the said proprietors, in the event of their being divested of the occupancy and management of their lands :

Provided, however, that either party who may be dissatisfied with the decision of the Collector<sup>[1]</sup> as to the question of the right of property shall be at liberty to contest the same in a regular suit in the *Adalat*; but the Court shall not interfere to alter the terms on which the settlement may have been made by the Collector<sup>[1]</sup> with proprietors, or the amount of *malikana* granted to such persons.

Collectors  
to be judges  
of question  
of jurisdiction.

18. The Collector<sup>[1]</sup> shall in cases of doubt be the judge of the question of jurisdiction, subject to the orders of the Board<sup>[3]</sup> and of Government; and the Courts of Judicature shall not disturb possession given by the Collector<sup>[1]</sup> except on a regular suit, and on a decision as to the right.

Collectors  
authorized to  
summon  
witnesses and  
require  
production  
of accounts.

19. *First*.—It shall be competent to Collector,<sup>[1]</sup> when prosecuting the above enquiries or hearing and trying the above suits, or otherwise when authorized in that behalf by the Board<sup>[3]</sup> to which they may be subordinate, to require all *sadar malguzars* and other persons owning, occupying, managing or cultivating any lands within or in the vicinity of the *mahal* to which their inquiries may extend, or gathering or disposing of the produce thereof, or collecting, enjoying or appropriating any rent or revenue derived therefrom, as well as the *gumashtas* or other agents employed by such persons in the management or cultivation of the land, or in the collection of the rent, produce or revenue thereof, to attend and produce all accounts or other papers which they may respectively possess relative to such lands, produce, rent or revenue, and

[1] As to the exercise of functions of Collectors by other officers, see s. 35, *post*, p. 236.

[2] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 634.

[3] As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[4] The words "of Commissioners," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

## (Sec. 19.)

to examine the said persons on oath,<sup>[1]</sup> or *halafnama* to the truth of the accounts produced or any other matter relating to such accounts, or regarding the lands, produce, rent or revenue of the *mahal* or the rights and interests attaching to such lands, produce, rent or revenue<sup>[2]</sup> :

Provided, however, that no person shall be compelled to answer on oath or solemn declaration any interrogation regarding matters wherein he may have an immediate personal interest in concealing the truth, or in uttering what is false, not being an interest arising out of fear, favour or reward, or any corrupt bargain or agreement with another party.

*Second.*—The rules contained in section 11, Regulation 2, 1819,<sup>[3]</sup> relative to the mode of serving process on persons who may be required to attend and produce accounts under the provisions of that Regulation, shall be and be held applicable to process issued by Collectors<sup>[4]</sup> or other officers under the rules contained in this Regulation.

Rules of Regulation 2, 1819, applied to process issued by Collector;

In like manner the provisions of section 12 of the said Regulation shall be applicable to all *patwaris*, *gumashtas* or other persons by whom the accounts of any lands, regarding which the said inquiries may have been instituted, may be kept, and who, after being duly summoned as aforesaid, may neglect or omit to produce any of the accounts required from them, or to give their evidence regarding them, or who may deliberately give a false deposition on oath or solemn declaration, when summoned and examined as aforesaid, or who may alter, fabricate, falsify or mutilate the accounts which they may be required to produce :

also to *patwaris* and others summoned or examined.

Provided further that Collectors<sup>[4]</sup> and other officers employed in the settlement of the land-revenue, or in any of the inquiries specified in this Regulation, shall be vested with all the powers and authority which are or may be lawfully exercised by Collectors<sup>[4]</sup> in cases depending before them under Regulation 2, 1819;<sup>[3]</sup> and the rules contained in clause third, sections<sup>[5]</sup> 13, 14 and 19 of the said Regulation shall be and be held applicable to all persons who may be summoned by any Collector<sup>[4]</sup> or other officer aforesaid, or who may resist the process of a Collector<sup>[4]</sup> issued under the rules of this Regulation, or who may refuse to take an oath<sup>[1]</sup> or subscribe a solemn declaration when required, or who may deliberately give a false deposition on oath or under a

Powers of Collectors.

Rules applied to other persons upon whom process may be issued.

[1] As to oaths, see the Indian Oaths Act, 1873 (10 of 1873), in General Acts, 1873-86, Ed. 1928, p. 7.

[2] As to penalty on landholders for not attending when summoned by the Collector, see the Bengal Landholders' Attendance Act, 1848 (20 of 1848), *post*, p. 309.

[3] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 161.

[4] As to the exercise of functions of Collectors by other officers, see s. 35, *post*, p. 236.

[5] *Sic* in Clarke.

11 Leg. D.

## (Sec. 20.)

solemn declaration taken instead of an oath or may cause or procure another to do so

Powers  
ordinarily  
vested in  
Collectors  
making or  
revising  
settlements.

[<sup>1</sup>]20. *First*.—The powers specified in sections 11, 12, 14, 16, 17, 18 and 19 of this Regulation shall be ordinarily exercised by Collectors[<sup>2</sup>] when employed in making or revising settlements of the land-revenue, and shall extend to all the lands comprised in the *pargana* in which he may be so employed; but it shall be competent to [<sup>3</sup>][the Local Government, by notification in the local official Gazette,] to be publicly proclaimed in the district, to restrict the authority of Collectors[<sup>2</sup>] and other officers making settlements in such manner and to such extent as [<sup>4</sup>][it] may from time to time judge expedient.

In like manner it shall be competent to [<sup>5</sup>][the Local Government] to vest such Collectors[<sup>2</sup>] as may from time to time be judged fit with a special authority to receive try and determine in the first instance, subject to a regular suit in the *Adalat* as above provided, all or any of the questions of the nature specified in the aforesaid sections, though the said Collectors[<sup>2</sup>] may not be engaged in making or revising a settlement of the land-revenue,

[<sup>6</sup>]*and to vest in such of the Collectors as may be thought proper authority (either generally or within such limits as may be from time to time determined) to receive, try and determine by summary process all suits for rent which may be preferred by zamindars, talukdars or other sadar malguzars or farmers of land, or by any person in their behalf against any dependent talukdar, zamindar, under-renter, raiyat or other under-tenant of whatever denomination, as well as all applications by raiyats and the under-tenants contesting the demand of a sadar malguzar or farmer;*

[<sup>1</sup>] As to the partial repeal of s. 20 by the Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1833 (9 of 1833), s. 3, see foot-note headed "Partial Repeal" on p. 203, *ante*.

So much of s. 20 and the following sections as applies to suits for rent, to complaints of excessive demand or undue exaction of rent, or of the non-delivery of *pattas* or receipts, to suits against agents for money or accounts, or to any other suits or complaints arising out of disputes between landholders or farmers and their under-tenants respecting the rent and occupancy of land, has been repealed by the Bengal Rent Act, 1859 (10 of 1859), wherever that Act extended. The matter printed in italics in this section seems to be obsolete in consequence of that repeal.

[<sup>2</sup>] As to the exercise of functions of Collectors by other officers, see s. 35, *post*, p. 236.

[<sup>3</sup>] The words "the Government, by an Order in Council," in the original text, are to be read as if the words "the Local Government, by notification in the local official Gazette," were substituted therefor—see the Amending Act, 1903 (1 of 1903) Sch. II, *post*, p. 634.

[<sup>4</sup>] The word "he" in the original text is to be read as if the word "it" were substituted therefor—see *ibid*.

[<sup>5</sup>] The word "Government," in the original text, is to be read as if the words "the Local Government" were substituted therefor—see *ibid*.

[<sup>6</sup>] The matter printed in italic, seems to be obsolete—see foot-note [<sup>1</sup>] above.

(Sec. 30.)

and all complaint referred by royal order and to a whatever description against landholders or tenants of land or their active agents or representatives on account of excessive exaction of rent whether levied by district or talukdar as well as all suits relative to the adjustment of accounts between landholders and farmers of land or under tenants of whatever description and the suits tried or with any agent or sons employee or then in the management of land or the collection or payment of the rent of land and to all other matters immediately connected with the demand receipt or payment of the rent of land whether malguzari or talukdari or with the rent of orchards pasture grounds and fisheries commonly denominated phallar tankar and galkar, or with any other asset of the land revenue not included in the sum abolished together with all complaints of the non-delivery of pattas when demandable under the Regulations or complaints of the prescribed receipts not being given for actual payment of rent and generally complaint of any deviation from the Regulations or from the established usage of the country relative to the matters aforesaid or any violation of subsisting engagements in disputes respecting the rent and occupancy of land between landholders or farmers of land and their under tenant of whatever denomination [1]

Second—The appointment of the Collector [2] to the discharge of the above duties and the extent of the jurisdiction to be assigned to him shall be notified by proclamation in the district after such manner as the [3] [Local Government] may direct

Appointment of Collector to discharge above duties, how notified

and after the publication of notice all summary suits actions applications and complaints of the above nature, and referring to lands or the rents produce or accessions of land lying within the jurisdiction assigned to the Collector as above which may be preferred in the Zildar \* [4] adalat by any sadar malguzari zamindar talukdar farmer, raiyat or other proprietor or under tenant of land shall immediately on being received be referred for trial to the Collector to whom also all such summary suits depending at the time shall be transferred

Provided also that in such cases parties having suits or complaints to prefer of which the cognizance may be vested as above in the Collector shall be at liberty to prefer them to that officer in the first instance

[1] The matter printed in italics seems to be obsolete—see foot note [1] on p. 226 ante

[2] As to the exercise of functions of Collectors by other officers, see s. 35, post, p. 236

[3] The words "Governor General in Council" in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act 1903 (1 of 1903) Sch. II post p. 634

[4] The words "or City" in s. 20 (2) which were repealed by the Repealing Act, 1874 (16 of 1874) are omitted

## (Sec. 21.)

It shall in like manner be competent to the <sup>[1]</sup>[Local Government] to fix, <sup>[2]</sup> [by notification in the local official Gazette], the period at which the special powers given as above to a Collector, and the authority to be ordinarily exercised by those officers on the occasion of making settlements, shall cease and determine.

*Limitation of times for preferring complaints specified.*

*Third.—No complaint or application of the nature specified in the preceding clauses shall be received by a Collector under the rules of this Regulation, unless the plaint or application shall have been preferred within the period of one year after the cause of action shall have arisen.*

*Rules for guidance of Collectors; their powers.*

**21.** <sup>[3]</sup>*In summary suits for rent and the like, wherein special rules have been prescribed for regulating the process of the Courts, the Collectors shall be guided by the same rules, and shall exercise the same powers and authority, as are or may be lawfully exercised by the Zila and City Judges.*

In other cases falling under their cognizance according to the provisions of this Regulation, the ordinary process for securing the attendance of the defendant or party otherwise impleaded shall be to issue a notice reciting the matter, and requiring the defendant or other party to attend in person, or by representative, at such time and place as may be made choice of by the Collector<sup>[4]</sup> for conducting the investigation;

should any party fail to attend after being served with a notice of the above description, or should the return of the *nazir* or person employed to serve the notice be, that after diligent search the party or parties cannot be found, proclamation shall be made in writing, to be stuck up at or near the ordinary residence of the party, stating that, after 15 days from the date of publishing the same, the case will be liable to be brought up for trial and judgment; and any party implicated, who, having been served with the notice above described, shall fail to attend or who shall continue to absent himself, will be as much bound by the judgment that may be passed as if he or they had been in attendance to plead.

[1] The words "Governor General," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1907 (1 of 1903), Sch. II, *post*, p. 634.

[2] The words "by an Order in Council," in the original text, are to be read as if the words "by notification in the local official Gazette" were substituted therefor—see *ibid.*

[3] The matter printed in italics seems to be obsolete—see foot-note [1] on p. 226, *ante*.

[4] As to the exercise of functions of Collectors by other officers, see s. 35, *post*, p. 236.

(Secs. 22-23.)

**22.** (*Extension of ss. 18 and 19 of Reg. 8 of 1819.*) Rep. by the Bengal Rent Act, 1859 (10 of 1859).

[<sup>1</sup>]**23.** *First.*—It is hereby declared and enacted that, in so far as concerns the summoning and examination of witnesses, the penalties for false testimony, for resistance of process, contempts and all other similar matters connected with cases under cognizance before the Collectors[<sup>2</sup>] of land-revenue, or other officer, by virtue of the powers vested in them by this Regulation or any[<sup>3</sup>][other law] whereby Collectors[<sup>2</sup>] are vested with judicial powers, their *cutchery* or office for the time being shall be deemed and held to be a Court of Civil Judicature.

*Second.*—Provided also that the regular suits which may be brought to contest decisions passed by Collectors[<sup>2</sup>] under the powers vested in them by sections 11, 12, 14, 15, 16, 17, 18, 19 and 20 shall be of the nature of an appeal to Court in its regular jurisdiction from a summary award. It shall not therefore be necessary for the Collector[<sup>2</sup>] or other officer of Government to be a party in the action.

*Third.*—Collectors[<sup>2</sup>] of the land-revenue are hereby empowered to execute all awards made by them under the rules of this Regulation, in cases wherein a specific sum of money shall be adjudged to be due, or any costs or damages be awarded; the Collector[<sup>2</sup>] decreeing the same shall proceed to levy the amount for the party in whose favour it may be adjudged by the process in use for the recovery of arrears of the Government revenue:

*Provided, however, that he shall not sell any lands, houses or other real property in satisfaction of any judgment passed in favour of any individual on a summary inquiry.*[<sup>4</sup>]

In cases wherein possession of lands, houses, water-course or the like may be adjudged, it may and shall be lawful for the Collector[<sup>2</sup>] making the award to deliver over possession in the same manner and with the same powers in regard to all contempts, resistance and the like as are or may be lawfully exercised by the Courts in giving possession

[<sup>1</sup>] Section 23 (1) has been applied—

by the Bengal Land-revenue Settlement Regulation, 1825 (9 of 1825), s. 5 (9), (*post*, p. 258), to cases investigated by Collectors under that Regulation or under the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819 (2 of 1819), (*ante*, p. 161); and

by the Cess Act, 1880 (Ben. Act 9 of 1880), s. 92 (printed in Vol. II of this Code), to the making of valuations of lands under Part II of that Act.

[<sup>2</sup>] As to the exercise of functions of Collectors by other officers, *see* s. 35, *post*, p. 236.

[<sup>3</sup>] The words "other law," in s. 23(1), were substituted for the words "other Regulation" by the Amending Act, 1903 (1 of 1903), Sch. II—*see post*, p. 634.

[<sup>4</sup>] So much of cl. 3 of s. 23 as prohibits the Collectors from selling land in satisfaction of summary awards for arrears of rent which may have accrued thereon was repealed by Act 8 of 1835, s. 1. *See* also the repeal by the Bengal Rent Act, 1859 (10 of 1859), mentioned in foot-note [<sup>1</sup>] on p. 226, *ante*.

(Sec 24)

to an auction-purchaser; and the *Zila* [1] *Adalat* shall support the Collectors[2] in the exercise of the above power, and shall give effect to any orders passed by them in pursuance of it in the like manner as if the same had been passed by themselves.

Collectors[2] are further hereby empowered to place one or more peons, *mirdahs*, *satwars* or the like to aid in the maintenance of possession for the party to whom it may be awarded, in case of his deeming such a measure necessary or expedient.

Collectors  
authorized  
to depute  
Native  
officers to  
make  
inquiries  
preparatory  
to settle-  
ment.

[2] 24. *First*.—It shall and it may be lawful for a Collector[2] or other officer exercising the powers of Collector preparatory to making or revising a settlement as aforesaid, to depute any *tahsildar*, *kanungo*, *amin* or other fixed or temporary officer to any village or *mahal*, whether the same be managed by a *zamindar* or farmer or be held *khas*, to inquire into the various matters which such Collector[2] or other officer is required or empowered to investigate, in order to form a settlement in the mode prescribed by this Regulation.

Any such Native officer so deputed as above shall be deemed to be vested with the power of summoning and examining *patwaris*, *qumashtras* or other persons by whom the accounts of the village or *mahal* may be kept, in the same manner and with the same powers as is provided for officers deputed under section 25, Regulation 12, 1817.[1]

Furthermore, in case the Collector[2] or other officer may so prescribe, the said *tahsildar* or other person shall be empowered to make a measurement of the village or *mahal* into which they may be deputed, and to summon any *mukaddams*, *padhans*, *rayats* or other residents, and to call upon them to point out the boundaries of such village or *mahal*, and to furnish information as to all matters relating to the land and the rights and interest attaching thereto; and any person contumaciously withholding information from an officer deputed as aforesaid shall be liable, on the same being established to the Collector's[2] satisfaction, to the same penalty as is prescribed for *patwaris* refusing to attend or give evidence.

Punishment  
of resistance  
or obstruc-  
tion of

*Second*.—Provided also that any person who may by force or threats obstruct or resist the execution of any legal process, requisition or order of a Collector[2] or other Revenue-officer shall, in addition to the penalties

[1] The words "or City," which are repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[2] As to the exercise of functions of Collectors by other officers, see s. 35, *post*, p. 236.

[3] S. 24 (1) has been applied by the Cess Act, 1880 (Ben. Act 9 of 1880), s. 92 (printed in Vol. II of this Code), to the making of valuations of lands under Part II of that Act.

[4] The Bengal Patwaris Regulation, 1817 S. 25 of the Regulation is printed ante p. 136.

(Secs 26, 28)

prescribed by [1] [any other law] for such act be liable to a fine not exceeding two hundred rupees or to imprisonment in the District Jail for a period not exceeding two months the said fine or other penalty to be adjudged by the Collector[2] after proceeding duly held and recorded and the sentence to be immediately reported to the Board[3] to which he may be subject

*Third*—Provided further that all police officers shall aid and support the execution of all processes and orders issued by a Collector[2] or other officer aforesaid on the responsibility of the officer issuing or executing the same and if any affray or breach of the peace shall occur in consequence of any resistance or obstruction being made or attempted to be made to the legal process or order of a Collector[2] or other Revenue-officer the parties resisting or obstructing such process or order shall be punishable for the affray or breach of the peace, and the Revenue-officer shall not be liable to any criminal prosecution on that account

**25.** (Empowerment of Vakils or Agents by parties in suits before Collectors) *Rep by the Pleaders, Mukhtars and Revenue Agents Act 1865 (20 of 1865)*

**26.** No other pleadings shall be required from the parties in [1] [suits the cognizance of which is hereby vested in Collectors] than a plaint and answer

Provided that, if the parties should at any time wish to file an amended plaint or an amended answer or any explanatory motion, such subsidiary pleadings shall be received

**27.** (Stamped paper to be used) *Rep by the Repealing Act, 1876 (12 of 1876)*

[1] **28.** It shall be competent to the Collector[2] to hear and determine such suits in whatever part of the district they may occasionally be or reside

Provided that every hearing and decision be in public *culcherry* or in some other place open to the public and in the presence of the parties or of their constituted agents or *vakils*, if in attendance

[1] The words 'any other law,' in s 24 (2), were substituted for the words 'the existing Regulations,' by the Amending Act 1903 (1 of 1903), Sch II—see post p 634

[2] As to the exercise of functions of Collectors by other officers, see s 35, post p 246

[3] As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act 1913 (B and O Act 1 of 1913), printed in Vol III of this Code

[4] The words in square brackets in s 26 were substituted for the words 'such suits' by the Amending Act, 1903 (1 of 1903), Sch II—see post, p 634

[5] S 28 has been applied, by the Bengal Land revenue Settlement Regulation 1825 (9 of 1825) s 5 (9) post, p 258, to cases investigated by the Collectors under that Regulation or under the Punjab Land revenue Assessment (Resumed Lands) Regulation, 1819 (2 of 1819) ante, p 161

Collectors may try and determine suits in any part of their districts



## (Sec. 29.)

Appeal to  
Board.

[<sup>1</sup>]29. *First*.—The decisions of the Collectors[<sup>2</sup>] on all such suits shall be appealable to the Board of Revenue or other authority exercising the powers of that Board.[<sup>3</sup>]

Procedure on  
such appeal.

The petition of appeal shall be presented either to the Collector[<sup>2</sup>] or to the Board,[<sup>3</sup>] at the option of the party \* \* \* [<sup>4</sup>]; \* \* \* \* [<sup>5</sup>].

\* \* \* [<sup>6</sup>] the Board[<sup>3</sup>] shall not be required in ordinary cases to go into a regular investigation of the merits, but shall be authorized to dismiss the appeal without further investigation, in all cases in which, on a consideration of the final *rubakari* of the Collector,[<sup>2</sup>] they may not see ground to consider the decision of that officer to be unjust, erroneous or doubtful, or his proceedings in the case irregular or imperfect :

When  
Board may  
direct new  
trial or  
interpose to  
correct  
neglect or  
delay.

\* \* \* [<sup>6</sup>] in all cases in which the Collector[<sup>2</sup>] may dismiss the suit for non-attendance, or on some other ground of default, without an investigation of the merits of the case, it shall be competent to the Board[<sup>3</sup>] to direct a new trial, and, in cases in which he may neglect or delay the investigation or decision of a suit without sufficient cause, it shall be competent to the Board[<sup>3</sup>] to interfere, and to cause the Collector[<sup>2</sup>] to proceed upon the inquiry into and determination of it.

Pleadings  
required in  
appeals to  
Board.

*Second*.—No pleadings, except the petition of appeal, shall be required in such appeals, nor shall any fees be taken by the Board on the exhibits originally filed, or on any further documents which the Board[<sup>3</sup>] may think it necessary to call for.

No *mukhtar-*  
*nama* re-  
quired for  
same agents  
re-employed.

*Third*.—If the parties choose to employ in the pleading of such appeals the same agents or *vakils* who were previously employed by them in the original suit, no further *mukhtarnama* or *vakalatnama* shall be required of them.

Respondent  
to receive  
notice, but  
not required  
to appear.

*Fourth*.—The respondent shall receive notice of the appeal, but shall not be compelled to appeal in person or by *vakil*; and the appeal shall be decided on the merits of the case, notwithstanding his absence, in the same manner as if he had attended.

[<sup>1</sup>] As to the time for presenting an appeal under s. 29, see the Bengal Land-revenue Settlement Act, 1868 (Ben. Act 3 of 1868), in Vol. II of this Code.

[<sup>2</sup>] As to the exercise of functions of Collectors by other officers, see s. 35, *post*, p. 236.

[<sup>3</sup>] As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[<sup>4</sup>] The words "and shall be written on stamped paper of the value of two rupees," in s. 29 (1), which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

[<sup>5</sup>] Words as to limitation, which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[<sup>6</sup>] The words "Provided also that," which were repealed by *ibid*, are omitted.

(Secs. 30-31.)

*Fifth.*—The decision of the Board<sup>[1]</sup> shall be final in as far as concerns the result of the summary inquiry of the Collector<sup>[2]</sup> \* \* \* <sup>Board's decision how far final.</sup> \*<sup>[3]</sup>.

*Sixth.*—Any person, however, dissatisfied with the summary judgment of the Collector<sup>[2]</sup> or the Board<sup>[1]</sup> and desirous of a more full and formal decision, shall be at liberty to prefer a regular suit to try the merits of the case in the *Zila* or other similar or superior Court in which it may be cognizable. <sup>But decision of Board and Collectors may be contested by regular suit.</sup>

In such cases the summary judgment of the Collector,<sup>[2]</sup> if not reversed or stayed by the Board,<sup>[1]</sup> shall be carried into effect notwithstanding the institution of the regular suit.

**30.** All persons having claims or complaints to prefer of the nature of those made cognizable by Collectors<sup>[2]</sup> under the provisions of this Regulation, and not wishing to avail themselves of the summary process authorized in that Court, shall be at liberty to institute their claims or complaints, in the first instance, by a regular suit before the local *Munsif*, or in the *Zila* \* \* \* <sup>Parties having claims cognizable by Collectors, and not wishing summary trial, may in first instance bring regular suit.</sup> <sup>Adalat</sup> \* \* \* <sup>[5]</sup>, according as the suit may be cognizable in these Courts respectively \* \* \* <sup>[6]</sup>.

**31. First.**—Whenever a regular suit may be instituted in a Civil Court, with a view to set aside or alter a summary judgment passed by a Collector<sup>[2]</sup> the proceedings held on the summary inquiry shall be called for by precept from the Court, and filed on the record of the case. <sup>On appeal against Collector's decision h.c. proceedings to be on record.</sup>

*Second.*—\* \* \* <sup>[7]</sup> all \* \* \* <sup>[8]</sup> *Munsifs* shall, in cases tried by them, be held and bound by the decisions passed, and records prepared, by Collectors<sup>[2]</sup> or other Revenue-officers under the provisions of <sup>No such appeal cognizable by, or referable to, any *Munsif*.</sup>

[1] As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[2] As to the exercise of functions of Collectors by other authorities, see s. 35, *post*, p. 236.

[3] The words "and shall be rendered in a Persian *rubakari*, written on stamped paper of the value of two rupees," have been omitted: the word "Persian" was repealed by the Repealing Act, 1874 (16 of 1874), and the remaining words were repealed by the Repealing Act, 1876 (12 of 1876).

[4] The words "or City," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[5] The words "or Provincial Court of the Division," which were repealed by *ibid.*, are omitted.

[6] The words "under the general Regulations for the administration of civil justice," which were repealed by *ibid.*, are omitted.

[7] The words "Provided also that" are omitted as having been repealed by the Amending Act, 1903 (1 of 1903), and the words "no such suit shall be cognizable by, or referable to, any register, *sadar amin* or *munsif*, and" are omitted as having been repealed partly by Act 25 of 1837 and partly by the Repealing Act, 1874 (16 of 1874).

[8] The words "registers, *sadar umins* and," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

this Regulation, unless the same shall have been rescinded or altered by the Board<sup>[1]</sup> or by the *Zila* or other similar or superior Court, on a regular suit.

Periodical  
reports by  
Collectors  
to Board.

**32.** The Collectors<sup>[2]</sup> shall transmit to the<sup>[3]</sup> Board<sup>[1]</sup> such periodical reports of the causes decided by, or depending before, them as the <sup>[3]</sup>Board<sup>[1]</sup> may direct, and the <sup>[3]</sup>Board<sup>[1]</sup> will also furnish to Government such abstracts of those reports, and such reports in the cases received and determined by them in appeal, as the <sup>[4]</sup>[Local Government] shall from time to time require.

Collectors  
authorized  
to refer  
certain cases  
to arbitra-  
tion.

**33.** *First.*—It shall be competent to Collectors<sup>[2]</sup> or other officers exercising the powers of Collectors to refer to arbitration any disputes cognizable by them under the provisions of this Regulation, as well as any questions or disputes of any kind respecting land of the tenures therein, or the rights dependent thereon, that may come before them, provided the parties consent to that mode of adjustment, and, on award being made, to cause the same to be executed.

Force of  
awards  
passed  
on such  
reference.

In referring cases to arbitration under the above provision, and in their general proceedings relative to such suits, the Collector<sup>[2]</sup> \* \* \*<sup>[5]</sup> shall be competent to vest in the arbitrators the same powers and authority in regard to the summoning and examination of witnesses, and the administration of oaths<sup>[6]</sup> and to enforce the orders passed by the arbitrators under such powers, in the same manner as the Courts of Judicature are empowered to do; and all awards made on such references shall, when confirmed by the Collector<sup>[2]</sup> have the same force and validity as a regular decree of the *Adalat*, and shall not be liable to be reversed or altered, unless the award shall be open to impeachment on the ground of corruption or gross partiality or shall extend beyond the authority given by the submission of the parties; and such ground of impeachment shall be established in a regular suit in the *Zila*, \* \* \*<sup>[7]</sup> or other superior Court wherein the case may be cognizable.

[1] As to the present constitution and powers of the Board of Revenue, *see* the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[2] As to the exercise of functions of Collectors by other officers, *see* s. 35, *post*, p. 236.

[3] This word "Board" was substituted for the word "Boards" by the Amending Act, 1903 (1 of 1903), Sch. II—*see post*, p. 634.

[4] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—*see ibid*.

[5] The words and figures "shall be guided by the rules contained in Regulation 16, 1793, and the other corresponding enactments and in Regulation 6, 1813, in so far as the same may be applicable, and," in s. 33 (1), which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[6] As to oaths, *see* the Indian Oaths Act, 1873 (10 of 1873), in General Acts, 1873-86, Ed. 1928, p. 7.

[7] The word "City," which was repealed by the Amending Act, 1903 (1 of 1903) is omitted.

(Sec 34.)

*Second.*—In referring any dispute to arbitration, the Collector<sup>[1]</sup> shall be careful to specify in his proceedings, and in the deed of arbitration to be executed by the parties, the precise matter submitted to the arbitrators; and, if the award first made by the arbitrators shall not include all the points submitted to them, or shall be otherwise incomplete, it shall be competent to the Collector<sup>[1]</sup> again to refer the matter to them, with directions to perfect their award.

Matter of arbitration to be distinctly specified in Collector's proceedings

<sup>[2]</sup>*Third.*—The *pargana kanungos and tahsildars* may be appointed arbitrators in any case referred to arbitration under the above rules; anything in the existing Regulations notwithstanding.<sup>[3]</sup>

*Kanungos and tahsildars* may be employed as arbitrators. Power of Collectors to interfere in cases of disputed possession,

**34. First.**—When a Collector<sup>[1]</sup> or other officer exercising any of the powers vested in Collectors by the rules of this Regulation, relative to complaints of dispossession or disturbance of the possession of lands or premises, shall learn, either by a reference from the Magistrate, or by a report from any other public officer or otherwise, that any disputes exist within the tract placed under his jurisdiction, relative to any lands, premises, crops, orchards, pasture-grounds, fisheries, wells, water-courses, tanks, reservoirs or the like, likely to terminate in a breach of the peace, it shall and may be lawful for the Collector<sup>[1]</sup> or other officer aforesaid to require the contending parties to attend in person or by representative at a stated time and place, and, after investigating the case in the presence of the parties or their representatives, or such of them as may attend, or referring it to arbitration as above prescribed, to decide the case in the same manner as if it had been brought before him by the complaint of one of the parties :

Provided also that, if the fact of previous lawful possession cannot be ascertained, it shall be competent to the Collector<sup>[1]</sup> subject to the orders and direction of the Board,<sup>[4]</sup> to decide on the question of right, and to give possession to one of the contending parties, leaving the other party to contest the decision by a regular suit in Court; but no such decision shall be passed by any Collector<sup>[1]</sup> until he shall have instituted a careful inquiry into the fact of possession, and the Board<sup>[4]</sup> shall be careful to see that this restriction is observed :

and to give possession to one of the contending parties.

Provided further that in such cases it shall be competent to the Collector<sup>[1]</sup> to attach the disputed lands, premises, etc., as aforesaid,

Collector may attach disputed lands, etc.

<sup>[1]</sup> As to the exercise of functions of Collectors by other officers, see s. 35, *post*, p. 236.

<sup>[2]</sup> The third clause of s. 33 has been repealed for the Division of Orissa by the Orissa Tenancy Act, 1913 (B. and O. Act 2 of 1913), s. 2, Sch. I, Part I, in Vol. III of this Code.

<sup>[3]</sup> For additional rules as to arbitration, see the Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1833 (9 of 1833), ss. 5 to 10, *post*, p. 299.

<sup>[4]</sup> As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

(Sec. 35.)

and to appoint an officer to the management of the same, retaining in deposit the rents and produce or such portion thereof as may remain after discharging any public revenue demandable therefrom, with the charges of management, until one of the contending parties shall be placed in possession.

Reference of  
disputes by  
Magistrates  
to Collector.

*Second.*—Whenever any Magistrates or Joint Magistrates shall have before them any suit, complaint or information relative to any dispute regarding lands, premises, crops, watercourses or the like, which may appear likely to terminate in a breach of the peace, or which it may otherwise be desirable to bring to an immediate decision, it shall be the duty of such Magistrate or Joint Magistrate, in cases in which the Collector<sup>[1]</sup> shall be vested with the cognizance of such actions, to certify the case to that officer, and the Collector<sup>[1]</sup> will then forthwith proceed to investigate and determine the case under the rules above prescribed :

Provided also that, in all cases of forcible dispossession or forcible disturbance of possession, the Collector<sup>[1]</sup> shall invariably transmit to the Magistrate or Joint Magistrate a copy of the first proceeding held by him in the case, and also a copy of the *rubakari* containing his final award.

Collector to  
encourage  
arbitration.

*Third.*—The Collector<sup>[1]</sup> shall in all such cases use every proper means for inducing the parties to refer their disputes to arbitration, in like manner as the *Diwani* Courts are directed to do.

“ Board of  
Revenue.”

**35.** Whenever the term “ Board of Revenue ” \* \* \*<sup>[2]</sup> may occur in this or any other Regulation, the same shall be held and considered to apply to any Board, committee or commission, and to any member of such Board, committee or commission, that may be vested by the Governor General in Council with the powers and authority of the Board of Revenue, save and except in so far as may be otherwise specially declared and provided.

Rules  
regarding  
Collectors to  
apply to  
officer  
exercising  
authority of  
Collector.

In like manner, all rules in this or any other Regulation, whereby any duties or powers may be prescribed for, or vested in, Collectors shall be held and considered to be equally applicable to any officer exercising the authority of Collector under the orders or with the sanction of the <sup>[3]</sup>[Local Government].

[1] As to the exercise of functions of Collectors by other officers, see s. 35 on this page.

[2] The words “ or Board of Commissioners,” which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[3] The words “ Governor General in Council,” in the original text, are to be read as if the words “ Local Government ” were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 634.

## BENGAL REGULATION 11 OF 1822.

(THE BENGAL GOVERNMENT INDEMNITY REGULATION, 1822) [1]

(22nd November, 1822.)

**A Regulation \* \* \* [2] for declaring Government not to be liable for any errors or irregularities in the proceedings of the Courts of Justice, and for making further provision for the conduct of the Revenue-officers in certain cases.**

**1. (Preamble)** *Rep by the Bengal Land-revenue Sales Act, 1841 (12 of 1841)*

**2. (Repeals)** *Rep by the Amending Act 1903 (1 of 1903)*

**3 to 35. (Public sale of lands for arrears of revenue)** *Rep by the Bengal Land-revenue Sales Act, 1841 (12 of 1841)*

**36.** If a Collector [3] shall at any time being so instructed by either the Government or the Board [4] purchase on account of Government an estate exposed to sale for the recovery of arrears of revenue, the rules applicable to the management of ordinary *malguzari mahals* held *has* or *firmed* shall be considered applicable to such estate and also to all other estates the property of Government, according as they may be held *has* or let in farm

Rules for  
*has*  
management  
applied  
to purchases  
by Govern-  
ment

[1] **SHORT TITLE**—This short title was given by the Amending Act, 1903 (1 of 1903) Sch I—*see post* p 621

**LOCAL EXTENT**—Ss 36 and 38 of this Regulation have been declared, by the Laws Local Extent Act 1874 (15 of 1874), s 6 (printed in General Acts 1873-86 Ed 1928 p 48), to be in force throughout the former Province of Bengal except as regards the Scheduled Districts

S 38 has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s 3 to be in force in the following Scheduled Districts, namely—

the Hazaribagh, Ranchi, Palamau and Munbhum Districts, and Parganas Dhalbhum, the Kolhan, and the Porahat Estate, in the Singhbhum District, in the Chota Nagpur Division—*see* Vol IV Part III

S 38 is in force in the Angul District—*see* Vol IV, Part IV, but the application of s 36 in that District is barred by the Angul Laws Regulation, 1913 (3 of 1913), s 3 (2) *post*, p 768

The application of ss 36 and 38 is barred in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation 1872 (3 of 1872) s 3 (2) as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s 2 *post* p 700

[2] The words 'for modifying and explaining the existing Regulations relative to the sale of land for the recovery of arrears of revenue,' which were repealed by the Amending Act 1891 (12 of 1891) are omitted

[3] As to the exercise of functions of Collectors by other officers *see* the Bengal Land Revenue Settlement Regulation 1822 (7 of 1822) s 35 *ante* p 236

[4] As to the present constitution and powers of the Board of Revenue *see* the Bihar and Orissa Board of Revenue Act, 1913 (B and O Act 1 of 1913), printed in Vol III of this Code.

(Secs 37-39.)

**37.** (*Collector's power to punish for contempt*) Rep. by the Bengal Land-revenue Sales Act, 1841 (12 of 1841).

Government  
not liable  
for errors  
of Courts.

**38.** It is hereby declared and enacted that Government is not and shall not be held liable for any error or irregularity which may have occurred, or shall occur, in any order, proceeding or decree of any Court of Judicature, whether a revenue or other officer of Government may or may not have been, or shall or shall not be, employed in giving effect to the order, proceeding, or decree deemed to be erroneous or irregular.

Nor shall any officer of Government be held liable for anything done or suffered in conformity with an order, proceeding or decree of a Court as aforesaid: and if any person or persons shall sue Government or any officer of Government for anything done or suffered under an order, proceeding or decree of Court as aforesaid, such person or persons shall be non-suited, with costs.

The same principle is and shall be held applicable to all orders, proceedings or decrees made, held or passed by any public officer, in virtue of powers vested in him for the judicial cognizance of any pleas, suits, complaints or informations whatsoever, unless otherwise specially provided.

**39.** (*Saving of Ben. Reg. 1 of 1821.*) Rep. by the Bengal Land-revenue Sales Act, 1841 (12 of 1841)

BENGAL REGULATION 6 OF 1823.

(THE BENGAL INDIGO CONTRACTS REGULATION, 1823.)

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SECTION.

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*Third*.—Summons how served and public notice of claim how given.  
*Fourth*.—On non-appearance of defendant or other claimants, evidence to be taken, and case decided *ex parte*.  
*Fifth*.—In what cases award shall be passed, adjudging plaintiff's right to produce.  
*Sixth*.—If claim be not established, plaintiff to pay costs and compensation to defendant.  
*Seventh*.—Notice to third parties in what cases, and their claims how investigated.  
*Eighth*.—Defendant not to be subjected to unnecessary detention.  
*Ninth*.—In what cases order may issue to deliver plant to a party, before summary inquiry completed.
4. *First*.—Authority to watch fields and to prevent removal of plant given to parties in certain circumstances.  
*Second*.—Security for rent due to landholders how provided.
5. *First*.—Suits by parties injured by breach of contract in regard to cultivation and delivery of indigo-plant.  
*Second*.—Judgment to what extent in summary suits.  
*Third*.—(*Repealed*.)  
*Fourth*.—Penalty in regular suits where breach of contract not ascribable to fraud or dishonesty.
6. Investigations how and by whom conducted.
- 7, 8. (*Repealed*.)



## BENGAL REGULATION 6 OF 1823.

(THE BENGAL INDIGO CONTRACTS REGULATION, 1823.)<sup>[1]</sup>

(10th July, 1823.)

**A Regulation for authorizing the institution of summary suits to enforce the execution of certain written engagements for the cultivation and delivery of the indigo-plant, and for declaring certain principles in regard to the same.**

### Preamble.

1. The poverty of the lower orders in India, and particularly of those employed in agriculture, occasions the general use of borrowed capital for the production of the chief articles of trade and consumption.

The capitalist advances his money, and sometimes the seed likewise, upon a contract to receive the produce of a defined quantity of land, either at a certain fixed price, or at rates to be subsequently determined with reference to the market price at a specified season; and this system is understood generally to prevail in the Province of Bengal<sup>[2]</sup> in the cultivation of the plant from which the indigo-dye is extracted.

According to the existing Regulations, if the contracting *raiyat* should fail to cultivate the land in the manner specified, or, having so cultivated the land, should sell the produce to another, or otherwise defraud his creditor, and fail to execute his contract by delivery of the stipulated article, the person with whom he has so contracted has no other remedy than a regular action for the recovery of the penalty conditioned in the agreement.

It is usual for the Courts of Justice, in decreeing such causes, to award such limited penalty as may, in each instance, appear to be a fair compensation to the person making the advances for the non-employment of his capital.

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[1] **SHORT TITLE.**—This short title was given by the Amending Act, 1903 (1 of 1903), Sch. I—see *post*, p. 621.

**LOCAL EXTENT.**—This Regulation was enacted for the whole of the former Province of Bengal—see the concluding paragraph of s. 1, *post*, p. 241.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1873-86, Ed 1928, p. 48), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

The application of the Regulation is barred—

in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 768.

in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, *post*, p. 700.

**FURTHER ENACTMENTS.**—Other enactments relating to indigo contracts are—

the Bengal Indigo Contracts Regulation, 1830 (5 of 1830), *post*, p. 296 and the Bengal Indigo Contracts Act, 1836 (10 of 1836), *post*, p. 302.

the Champaran Agrarian Act, 1918 (B. & O. Act 1 of 1918), in Vol. III of this Code.

[2] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

(Sec. 2.)

In the absence, however, of any rule for the regulation of the discretion thus assumed, much confusion has arisen from the conflicting opinions and judgments of the several judicial officers as to the extent of penalty recoverable on agreements of this nature.

\* \* \* \* \*

It seems reasonable, also, that the person who advances seed and capital, or capital only, for the expenses of cultivation on a defined parcel of land, should be considered to possess a lien and interest in the indigo-plant produced, on that land, when so stipulated in a written engagement between the parties and especially in cases in which such written engagement may have been duly registered \* \* \* \* \*<sup>[1]</sup>; and that it should not be in the power of a *raiyat*, who has already conditioned for the delivery of the produce of his land to one person, to break the condition by a clandestine and fraudulent transfer of such produce to another.

The system at present in force provides, as above observed, no other remedy for parties injured by this dishonest practice than by a regular action in the Civil Court.

The difficulty and delay of obtaining redress by that course have not unfrequently led to acts of violence, and even to serious affrays; and the more frequent occurrence of such affrays is to be apprehended in consequence of the eager competition which now prevails amongst the indigo-manufacturers in some parts of Bengal, arising from the unusually high price of indigo.

The Governor General in Council has in consequence judged it expedient to declare the principles on which the points above stated shall be settled, and to provide for the more prompt adjustment of disputes and enforcement of contracts of the nature above specified; and the following rules have accordingly been passed, to take effect in the several districts comprised within the Province of Bengal<sup>[2]</sup> from the date of their promulgation.

2. If any person shall have given advances to a *raiyat*, or other cultivator of the soil, under a written engagement, stipulating for the cultivation of indigo-plant on a portion of land of certain defined limits, and for the delivery of the produce to himself, or at a specified factory or place, such person shall be considered to have a lien or interest in the indigo-plant produced on such land, and shall be entitled to avail himself of the process hereinafter provided for the protection of his interests and for the due execution of the conditions of the contract.

When persons making advances for cultivation of indigo plant on certain land have lien on, or interest in, its produce

[1] Portion repealed by the Amending Act, 1891 (12 of 1891), is omitted.

[2] The words and figures "under the provisions of Regulation 20 of 1812," which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

[3] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

## (Sec. 3.)

Such person  
how to  
proceed  
when he has  
just reason  
to believe  
that *raiya*  
will dispose  
of produce  
otherwise  
than  
stipulated.

**3. First.**—If any person, who may have made advances on conditions of the nature above described, shall have just reason to believe that an individual under engagement with him is evading or is about to evade the execution of his contract, by making away with and disposing of the produce otherwise than as stipulated, or that he has engaged secretly or openly to supply the same to another, it shall be competent to such person to present a petition of complaint to the *Zila* [1] Judge \* \* \* [2] within whose local jurisdiction the land stipulated to be cultivated with the indigo-plant may be situated, filing with the same the original deed of engagement by which the produce may be assigned and engaged to be delivered to himself or at his factory, and certifying in his petition that such deed was voluntarily and *bond fide* executed by the individual complained against.

Summons for  
attendance  
of defend-  
ant.

**Second.**—On such petition and original deed of engagement being filed, a summons, or *talab chitthi*, shall be immediately issued through the *nazir* in the usual form, requiring the individual named in the petition to attend and answer to the complaint, either in person or by an authorized agent, within such specified period as may in each instance appear reasonable, and which period shall in no case exceed twenty days.

Summons  
how  
served;

**Third.**—The officer entrusted with the execution of the process shall also be instructed to affix a copy of the summons in the village *cutcherry* or other place of public resort, and to erect a bamboo on the specific parcel of ground on account of which the claim may have been preferred, and which it shall be the duty of the plaintiff or his agent to point out.

and public  
notice of  
claim how  
given.

By these means sufficient public notice of the claim will be given to enable persons desirous of contesting the plaintiff's right, or of establishing a prior right to the produce of the land, to appear either in person or by an authorized agent before the Court for that purpose, and the failure so to attend, before the summary decision be passed, will be held to bar the claim of any third party founded on any contract for the produce of the land in question, unless it be established by a regular suit.

On non-  
appearance  
of defendant  
or other  
claimants  
evidence  
to be taken,  
and case  
decided  
*ex parte*.

**Fourth.**—If the officer serving the process shall not be able to execute it on the person of the defendant, he shall nevertheless publish the claim in the manner above directed, and if the defendant shall not appear to answer to the complaint within the period specified in the summons, and no other claim be preferred in bar of that of the plaintiff, the Judge

[1] The words "or City," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[2] The words "or to a register exercising the powers of Joint Magistrate," which were repealed by *ibid*, are omitted.

## (Sec. 3.)

\* \* [1] shall, after taking evidence to establish the deed and other allegations of the plaintiff, proceed to the adjudication of the claim, in the same manner as if the defendant had personally appeared.

*Fifth.*—If the defendant or his authorized agent should attend within the period specified, and should deny the execution of the deed of engagement filed by the complainant, proof of the same shall be taken; and if its voluntary execution be established to the satisfaction of the Court \* \* \* [2] and no preferable claim be established by a third party, a summary award shall be made, adjudging to the plaintiff the right of receiving the crops according to the terms of the agreement.

In what cases award shall be passed, adjudging plaintiff's right to produce.

The same principle shall be applied if the engagement be admitted and no satisfactory reason be shown why the defendant should not be held to the performance of his contract.

*Sixth.*—If it be proved that the engagement was not duly and voluntarily executed by the defendant, or if it should appear that the proceeding is otherwise litigious and oppressive, and the claim unfounded, or that the plaintiff had no sufficient cause to warrant his application to the Court, the complaint shall be dismissed, and the plaintiff shall be made liable to the payment of costs and such reasonable sum in addition as may seem to the Judge \* \* \* [3] a proper compensation to the defendant for any trouble and annoyance to which he may have been subjected.

If claim be not established, plaintiff to pay costs and compensation to defendant.

*Seventh.*—If it should appear in the course of the inquiry that the defendant is under engagement for the same land to a third party, notice shall immediately be issued for that party to appear and plead, either in person or by *rakil*; and if such person or any third party shall, previously to the decision of the case, come forward and produce a similar deed of engagement, stipulating for the produce of the same portion of land, the Judge \* \* \* [3] shall, after such summary investigation as may be necessary, determine whether either of the parties have any just claim to the produce of the land, and, if so, which of them may have the prior and better claim; a preference will of course be given to engagements duly registered \* \* \* [4].

Notice to third parties in what cases and their claims how investigated.

[1] The words "or other officer" which were repealed by the Amending Act, 1891 (12 of 1891), are omitted.

[2] The words "or other tribunal trying the case," which were repealed by *ibid*, are omitted.

[3] The words "or other officer trying the case," which were repealed by *ibid*, are omitted.

[4] The words and figures "under the provisions of Regulation 20, 1812," which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

## (Sec. 4.)

The result of such investigation shall be recorded, and a decree passed adjudging the question of right between the parties.

Defendant  
not to be  
subjected to  
unnecessary  
detention.

*Eighth.*—No defendant who may attend under the process described in this section shall be confined in jail, or be in any manner detained longer than may suffice to take his answer to the claim and to obtain from him such further explanations as the nature of the answer may suggest.

In what  
cases order  
may issue  
to deliver  
plant to  
a party,  
before  
summary  
inquiry  
completed.

*Ninth.*—If, pending the summary inquiry in the manner above directed, it shall appear that the plant on the ground is in a state fit to be cut, and will be injured or destroyed if not cut, it shall in such case be competent to the Judge \* \* \* [1] to pass an order[2] for the delivery of the plant to either of the parties provided that the said party consents and engages to pay to the other claimant (if the summary award should be ultimately in favour of the latter) a specific pecuniary compensation;

the amount of such compensation shall be fixed by the Judge \* \* \* [3] in communication with the parties, and shall be regulated with reference to the estimated produce of the ground, and to the probable value of such produce when manufactured; and the amount, when so fixed, shall be carefully recorded on the proceedings.

Authority  
to watch  
fields and to  
prevent  
removal of  
plant given  
to parties in  
certain  
circum-  
stances

*4. First.*—Any person in whose favour a summary award shall have been passed for the produce of any defined spot of land shall be entitled to place a watch over the same, and to prevent the cutting and removal of the plant in any manner contrary to the stipulations of his agreement; and, in the event of any attempt being made to cut or remove the plant, it shall be competent to the person holding the decree to apply to the nearest police *daroga* and to claim from him the assistance of the police in preventing such removal;

it shall, moreover, be the duty of the police-officers and of all other officers on such a decree being exhibited, to aid the person in whose favour it may have been passed to the utmost of their power.

Security for  
rent due to  
landholders  
how pro-  
vided.

*Second.*—In order that the foregoing rule may not operate to the prejudice of the landholders, who \* \* \* [4] are authorized to attach the crops for the realization of rents justly due to them, it is hereby provided that whenever any manufacturer, who may have obtained an award under the foregoing rules, may cause the plant to be cut and taken.

[1] The words "or other officer trying the case," which were repealed by the Amending Act, 1891 (12 of 1891), are omitted.

[2] As to security to be given by a person desiring to remove indigo plant, ordered to be delivered to him under cl. (9) of s. 3, see the Bengal Indigo Contracts Act, 1836 (10 of 1836), s. 2, *post*, p. 302.

[3] The words "or other person trying the case" which were repealed by the Amending Act, 1891 (12 of 1891), are omitted.

[4] The words "by the existing Regulations," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

## (Secs. 5-8)

away, he shall be held responsible, conjointly with the *raiyat*, for any arrear of rent which may have been due on account of the specific parcel of ground from which the indigo-plant may have been taken.

5. *First*.—In cases in which a *raiyat* who may have received advances and entered into written agreements for the cultivation and delivery of indigo-plant, in the manner indicated in this Regulation, shall have failed to cultivate the ground specified, or, having cultivated it, shall have failed or refused to complete his engagement, or shall have sold, made away with, or transferred the produce to another person, the party with whom such agreement was first made shall be at liberty to institute, at his option, either a summary or a regular suit.

Suits by parties injured by breach of contract in regard to cultivation and delivery of indigo plant

*Second*.—If the summary process be adopted and the cause be decided in favour of the plaintiff, the defendant shall be subjected to the payment of the amount of the advances actually received by him, with interest on the same, and the costs of the summary process.

Judgment to what extent in summary suits.

*Third*.—(*Judgments in regular suits*.) *Rep. by the Bengal Indigo Contracts Act, 1836 (10 of 1836).*

*Fourth*.—If no fraud or dishonest dealing be established, and the failure of a *raiyat* or other contractor to execute the stipulations of his engagement by the delivery of indigo-plant in the manner stipulated be owing to accident, or to any cause not implying fraud or dishonesty, the penalty to be adjudged against a contractor shall not exceed three times the sum advanced as the consideration for executing the deed, including interest.

Penalty in regular suits where breach of contract not ascribable to fraud or dishonesty.

6. \* \* \*<sup>[1]</sup> investigations under this Regulation shall be conducted according to the form and in the manner prescribed for the conduct of \* \* \*<sup>[1]</sup> suits for arrears of rent \* \* \*<sup>[2]</sup>. It shall \* \* \*<sup>[2]</sup> be competent to any person whose claim under a deed of engagement for the cultivation and delivery of indigo-plant may have been set aside \* \* \*<sup>[3]</sup>, or who may be otherwise dissatisfied with the decision passed on \* \* \*<sup>[1]</sup> <sup>[4]</sup>[an investigation] under the foregoing provisions, to institute a regular suit for the recovery of the penalty stipulated in the deed of engagement, or for the establishment of any other claim or interest to which he may deem himself entitled.

Investigations how and by whom conducted.

7, 8. (*Stamp on contract concerning indigo-plant; such contract may include several individuals and separate transactions*.) *Rep. by the Court-fees Act, 1870 (7 of 1870).*

<sup>[1]</sup> The word "summary," which was repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

<sup>[2]</sup> Words repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

<sup>[3]</sup> The words "by a summary award," which were repealed by *ibid*, are omitted.

<sup>[4]</sup> The words in square brackets in s. 6 were substituted for the words "a investigation" by the Amending Act, 1891 (12 of 1891), Sch. II—see General Acts, 1887-97, Ed. 1928, p. 188.

## BENGAL REGULATION 7 OF 1823.

[THE INDIAN CIVIL SERVICE (BENGAL) LOANS PROHIBITION REGULATION,  
1823.][<sup>1</sup>]

(30th October, 1823.)

### A Regulation for prohibiting loans by covenanted Civil Servants from persons subject to their official authority and influence.

Preamble.

1. Whereas by the existing Regulations[<sup>2</sup>] all covenanted Civil Servants of the Company, employed in the judicial and revenue departments of the service, are prohibited from lending money, directly or indirectly, to any proprietor or farmer of land, dependent *talukdar*, under-farmer or *raiya*t, or their sureties; and whereas it is equally necessary to prohibit the public officers from borrowing money from persons subject to their official authority and influence, the following rules have been enacted by the Governor General in Council, and are to be in force from the date of their promulgation throughout the provinces immediately subject to this Presidency[<sup>3</sup>].

Civil  
Servants  
prohibited  
from bor-  
rowing  
money from  
Native  
officers  
under their  
authority,  
etc.

2. *First*.—All covenanted Civil Servants, in whatever department of the public service they may be employed, are henceforward prohibited, under pain of dismissal from office, from borrowing money from, or in any way incurring debt to, any Native officer under their authority, or under the authority of any of their subordinate functionaries, or from

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[<sup>1</sup>] **SHORT TITLE**.—This short title was given by the Amending Act, 1897 (5 of 1897), Sch. III—*see post*, p. 547.

**LOCAL EXTENT**.—This Regulation was passed for the whole of the former Province of Bengal—*see s. 1*.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1873-86, Ed. 1928, p. 48), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the districts of Hazaribagh, Ranchi, Palamau and Manbhum, and Pargana Dhalbhum and the Kolhan and the Porahat Estate in the district of Singhbhum in the Chota Nagpur Division—*see Vol. IV, Part III*.

The Regulation is in force in the Sonthal Parganas—*see Vol. IV, Part IV*; but its application is barred in the district of Angul, by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 768.

**APPLICATION**.—The present Regulation relates to loans to officials. As to loans by officials, *see* the Indian Civil Service (Bengal) Loans Prohibition Regulation, 1793 (38 of 1793), *ante*, p. 69.

**GIFTS TO OFFICIALS**.—For prohibition of receipt of gifts by officials, *see*—ss. 124 and 125 of the Government of India Act.

[<sup>2</sup>] *See now* the Indian Civil Service (Bengal) Loans Prohibition Regulation, 1793 (38 of 1793), *ante*, p. 69.

[<sup>3</sup>] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

(Secs. 3-6.)

or to the known surety, agent, relation, connection or dependant of any such Native officer, or from or to any person of whom such Native officer may be known to be or to have been the servant, agent, surety or dependant.

*Second.*—In like manner, and under the like penalty, all officers of Government, being covenanted Civil Servants,[<sup>1</sup>] are henceforward prohibited from borrowing money from, or in any way incurring debt to, any manager, guardian, executor, *amin*, *sazawal*, *qumashta*, farmer, *mulawalli* or other person, who may in any way be officially accountable to them, or from and to the known surety, agent, relation, connection or dependant of such person.

and from other persons officially accountable to them.

*Third.*—(Rules applied to commercial officers.) *Rep. by the Repealing Act, 1874 (16 of 1874).*

3. [<sup>2</sup>] [All Commissioners, District and Sessions Judges. Deputy Commissioners and Assistant Commissioners, being members of the Indian Civil Service], are prohibited, under pain of dismissal from office, from borrowing money from, or in any way incurring debt to, any *zamindar*, *talukdar*, *raiya* or other person possessing real property, or residing in, or having a commercial establishment within, the city, district or division to which their authority may extend.

Certain officers prohibited from incurring debt to *zamindars* and others residing, or having property, within their districts.

4. All persons are prohibited from lending money, or otherwise becoming in any way creditor, to any officer of Government, being a covenanted Civil Servant, in contravention of the above rules : and any person lending money, or in any way becoming creditor, to any such public officer in breach of this prohibition shall forfeit to Government a sum equal to the amount for which he shall have so illegally become creditor.

Penalty for lending money to Civil Servants.

5. (Report by officers in debt.) *Rep. by the Repealing Act, 1874 (16 of 1874).*

6. [<sup>3</sup>], if any covenanted servant who may be hereafter appointed to any office, shall at the time of such appointment be indebted to any person with whom it would be illegal for him to contract a loan, while holding such office, it shall be incumbent on such servant, before entering on the duties of the office, to make known the circumstance to

Penalty for officers receiving new appointments, if indebted to individuals

[1] As to the extension of this prohibition to other officers of the Government, see the Government Servants' Conduct Rules, 1927, rule 8.

[2] The words in square brackets were substituted for the original words by the Amending Act, 1897 (5 of 1897), Sch. II—see *post*, p. 542.

[3] The words "In like manner," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.



(Secs. 7-8.)

contrary to  
above rules,  
omitting to  
report

the<sup>[1]</sup> [Local Government], and, failing to do so, he shall be subject to the same penalty as if the debt had been contracted subsequently to his being appointed to the said office.

7. (*Penalty on Natives knowingly taking office in contravention of above rules*) Rep by the Amending Act, 1903 (1 of 1903)

Suits for  
recovery of  
penalties.

8. Suits for the recovery of penalties incurred under this Regulation shall and may be instituted under the special instruction of the<sup>[1]</sup> [Local Government], and shall be conducted by the Superintendent and Remembrancer of Legal Affairs or by such other officer as<sup>[2]</sup> [the Local Government] may nominate for that purpose

Such suits shall be instituted in the \* \*<sup>[3]</sup> Court of the division within which the transaction may have taken place or the lender may reside or may possess real or personal property

An appeal shall lie from judgments passed in such cases, in like manner as from other judgments passed in original suits \* \*<sup>[4]</sup>; and the judgments shall be enforced under the provisions \* \*<sup>[5]</sup> for the execution of other decrees of the Civil Courts.

[1] The words "Local Government" in ss 6 and 8 were substituted for the words "Governor General in Council" by the Amending Act, 1897 (5 of 1897) Sch II—see post, p 542.

[2] The words "the Local Government," in s 8, were substituted for the word "Government" by *ibid*

[3] The word "Provincial" which was repealed by the Repealing Act 1874 (16 of 1874), is omitted.

[4] The words "by the Provincial Courts," which were repealed by *ibid*, are omitted.

[5] The words "of the Regulations," which were repealed by *ibid*, are omitted—see now the Code of Civil Procedure (Act 5 of 1906).

BENGAL REGULATION 6 OF 1825.

(THE BENGAL TROOPS TRANSPORT REGULATION, 1825.)<sup>[1]</sup>

(11th April, 1825.)

**A Regulation for rendering more effectual the rules in force relative to supplies and preparations for troops proceeding through the British territories.**

**1.** Whereas it is enacted in the first clause of section 3, Regulation Preamble. 11, 1806<sup>[2]</sup>, that, on receiving the notification mentioned in the preceding section relative to a body of troops about to proceed, by land or by water, through any part of the Company's territories, the Collector<sup>[3]</sup> of the district shall immediately issue the necessary orders to the landholders, farmers, *tahsildars*, or other persons in charge of the lands through which the troops are to pass for providing the supplies required and for making any requisite preparation of boats or temporary bridges, or otherwise for enabling the troops to cross such rivers or *nalas* as may intersect their march without impediment or delay; it being at the same time further directed, in the second clause of the section referred to, that the supplies so furnished shall be paid for by the persons receiving the same at the current *bazar* prices of the place at which they may be provided, and that the expense incurred for crossing the troops and their baggage over rivers or *nalas*, after being duly ascertained, will be paid by Government;

and whereas experience has shown the necessity of enabling the Collectors<sup>[3]</sup> or other public officers acting in that capacity to enforce their orders in the cases above-mentioned, by imposing a fine upon any landholder, *tahsildar* or other person in the possession or management of

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[1] **SHORT TITLE.**—This short title was given by the Amending Act, 1897 (5 of 1897), Sch. III—*see post*, p. 547.

**LOCAL EXTENT.**—This Regulation was passed for the whole of the former Province of Bengal—*see* the concluding paragraph of s. 1.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1873-86, Ed. 1928, p. 48), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the districts of Hazaribagh, Ranchi, Palamau and Manbhum, and Pargana Dhalbhum, the Kolhan and the Porahat Estates in the district of Singhbhum in the Chota Nagpur Division—*see* Vol. IV, Part III.

It is in force in:—

the district of Angul, Vol. IV, Part IV: and

the Sonthal Parganas, *ibid*.

[2] The Bengal Troops Transport and Travellers' Assistance Regulation, 1806. It is printed *ante*, p. 102.

[3] As to the exercise of functions of Collectors by other officers, *see* the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 236.

## (Secs. 2-3.)

land, who, after receiving the requisition issued in pursuance of the section above cited, may be proved to have wilfully disobeyed or neglected the same;

the Governor General in Council has therefore enacted the following rules, to be in force as soon as promulgated in all the Provinces immediately subject to the Presidency of Fort William.[<sup>1</sup>]

Penalty for  
zamindars  
not provid-  
ing supplies  
for troops,  
etc.

**2.** Any landholder, farmer, *tahsildar* or other person in the possession or management of land, who may have been duly required by a Collector[<sup>2</sup>] of the land-revenue (or any public officer acting in that capacity), in pursuance of section 3, Regulation 11, 1806,[<sup>3</sup>] to provide supplies for a body of troops about to proceed by land or water through any part of the British territories or to make preparations of boats, temporary bridges or otherwise, for enabling the troops to cross rivers or *nalas* intersecting their march, and after the receipt of such requisition shall wilfully disobey or neglect the same, or shall without sufficient cause fail to exert himself for the due execution of the duty so assigned to him, shall, on proof of such failure, neglect or disobedience to the satisfaction of the Collector[<sup>2</sup>] (or other officer acting in that capacity) by whom the order may have been issued, or of his successor in the same office, be liable to a fine proportionate to the defaulter's condition in life and the circumstances of the case, in such amount as the Collector[<sup>2</sup>] or other officer, with due regard to these considerations, may judge it proper to impose, so that the fine shall not in any case exceed the sum of one thousand \* \* [<sup>4</sup>] rupees.

Collector  
to make  
summary  
inquiry.

**3.** The Collector[<sup>2</sup>] or other officer acting in that capacity, who may exercise the powers vested in him by this Regulation, shall previously make a summary inquiry, in the presence of the party charged with disobeying or neglecting the order issued to him, or of his representative, if, on being duly summoned, he shall attend in person or by *vakil* for that purpose.

If he shall fail to attend, either in person or by *vakil*, the summary inquiry shall be conducted *ex parte*, and the Collector[<sup>2</sup>] shall record upon his proceedings the whole of the evidence obtained in proof of the neglect or disobedience for which a fine may be imposed.

[<sup>1</sup>] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

[<sup>2</sup>] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 236.

[<sup>3</sup>] The Bengal Troops Transport and Travellers' Assistance Regulation, 1806. It is printed *ante*, p. 102.

[<sup>4</sup>] The word "*sicca*," which was repealed by the Amending Act, 1903 (1 of 1903) is omitted.

## (Secs. 4-5.)

4. The Collector<sup>[1]</sup> or other officer who may adjudge a fine under this Regulation shall be competent to levy the amount by the same process<sup>[2]</sup> as is authorized for the recovery of arrears of the public revenue : Fine how levied.

Provided that if an appeal be preferred from his decision, within six weeks from the date of it, to the Board of Revenue,<sup>[3]</sup> \* \* \*<sup>[4]</sup> and sufficient security be tendered for performing the judgment of the Board<sup>[3]</sup> upon the appeal, the Collector<sup>[1]</sup> shall stay the execution of his order for levying the fine imposed by him, until he shall receive the final order of the Board<sup>[3]</sup>. Proviso as to appeal.

5. Appeals from the orders of Collectors<sup>[1]</sup> or other public officers, adjudging fines under this Regulation, may be preferred \* \* \*<sup>[5]</sup> either immediately to the \* \* \*<sup>[6]</sup> Board,<sup>[3]</sup> or through the officer by whom the fine may have been adjudged ; and, on admission of the appeal, the whole of the proceedings in the case shall be transmitted to the Board.<sup>[3]</sup> Petition of appeal against fine

But no such appeal shall be receivable after the expiration of six weeks from the date of the judgment, without proof of sufficient reason for the delay, to the satisfaction of the Board<sup>[3]</sup> \* \* \*<sup>[7]</sup>. Limitation of appeal.

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 236.

[2] See now the Bihar and Orissa Public Demands Recovery Act, 1914 (B. and O. Act 4 of 1914), ss. 4 and 5, in Vol. III of this Code.

[3] As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[4] The words "in whose jurisdiction the district may be situate," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[5] The words "on the stamped paper prescribed for other appeals to the Revenue Boards," which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

[6] The word "proper," which was repealed by the Amending Act, 1903 (1 of 1903), is omitted.

[7] The words "by whom the case may be cognizable," which were repealed by *ibid.*, are omitted.

## BENGAL REGULATION 9 OF 1825.

[THE BENGAL LAND REVENUE SETTLEMENT REGULATION, 1825]

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## BENGAL REGULATION 9 OF 1825

(THE BENGAL LAND-REVENUE SETTLEMENT REGULATION 1825) [1]

(5th May, 1825)

**A Regulation for extending the operation of Regulation 7, 1822,[-] for authorizing the Revenue-authorities to let in farm estates under temporary leases, on the default of the *malguzars*, or to hold the same *khas* for a term of years ; for modifying and adding to the rules contained in Regulation 2, 1819[+] ; and for making certain other amendments in the existing Regulations.**

**1.** Whereas the provisions of Regulation 7 1822 [-] are in force Preamble  
only within the Ceded and Conquered Provinces, in the district of Cuttack, and in the *pargana* of Pataspur and its dependencies ;

And whereas there are within the other Provinces belonging to this Presidency various *mahals* and tracts for which a permanent settlement has not yet been concluded, and it appears to be advisable that the Revenue-authorities should be vested, in regard to such *mahals* and tracts, with the same powers as belong to the like officers within the Ceded and Conquered Provinces,

And whereas the principle of the rules contained in the said Regulation, relative to lands held free of assessment, or at a *mukarrari jama* under special grants, is equally applicable to such tenures in all parts of the country, and it appears to be likewise expedient to make provision for the occasional exercise, by the Revenue-officers in the Lower Provinces, of the powers specified in the said Regulation, for the summary

[1] **SHORT TITLE**—This short title was given by the Amending Act, 1903 (1 of 1903), Sch 1—see *post*, p 621

**LOCAL EXTENT**—This Regulation was passed for the whole of the former Province of Bengal—see the concluding paragraph of s 1 *post* p 254

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874) s 6 (printed in General Acts 1873 86, Ed 1928, p 48), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s 3, to be in force in the districts of Hazaribagh and Manbhum and *pargana* Dhalbhum in the district of Singhbhum, in the Chota Nagpur Division—see Vol IV, Part III

Its application is barred in —

the district of Angul, by the Angul Laws Regulation, 1913 (3 of 1913), s 3 (2), *post*, p 768

the Sonthal Parganas by the Sonthal Parganas Settlement Regulation 1972 (3 of 1872), s 3 (2) as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s 3, *post* p 700

**EXTENSION OF APPLICATION**—This Regulation has been extended to estates dealt with under the Bengal Land revenue Sales Act 1859 (11 of 1859)—see s 60 of that Act, *post*, p 369

[2] The Bengal Land revenue Settlement Regulation 1822 It is printed *ante*, p 202

[3] The Bengal Land revenue Assessment (Resumed Lands) Regulation, 1819 It is printed *ante*, p 161

## (Secs. 2-3.)

trial of certain suits between individuals, subject as therein provided to an appeal to the *Adalat* by a regular suit;

And whereas, a frequent recourse to the sale of lands for the recovery of arrears of revenue in districts of which the assessment has not been fixed in perpetuity being inexpedient, it appears to be necessary and proper that the Revenue-authorities should be empowered to let in farm for a term of years the estates of defaulters under temporary leases, or to hold the same *khas* for the purpose of making a *raiayatwar* settlement, where that measure may be deemed advisable;

And whereas it has appeared to be expedient to modify and to add to the provisions contained in Regulation 2, 1819<sup>[1]</sup>; \* \* \* \*<sup>[2]</sup>;

The following rules have been enacted, to be in force from the date of their promulgation, within the Provinces belonging to the Presidency of Fort William.<sup>[3]</sup>

Provisions of Regulation 7, 1822, extended to lands not within limits of permanently-settled estates.

To be in force in estate held *khas*;

and applicable to Sunderbans, etc.

Power to vest Collector,

2. *First*.—The provisions contained in clause *Sixth*, section 2, and in the thirty-three following sections of Regulation 7, 1822,<sup>[4]</sup> are hereby extended to all lands (including *jagirs*, *mukarraris* and other tenures held free of assessment or at a quit-rent under special grant) not included within the limits of estates for which a permanent settlement has been concluded in the manner prescribed by Regulation 8, 1793,<sup>[5]</sup> \* \*<sup>[6]</sup>, as far as the same may be applicable.

*Second*.—The said provisions shall likewise be in force in all estates which may now or hereafter be held *khas*, during the period for which they may be so managed.

*Third*.—The provisions aforesaid shall also apply to [*the Sunderbans*,] the hill lands of Bhagalpur, and other extensive forests and wastes, not included within the limits of *parganas*, *mauzas* or other revenue divisions, specified at the time of settlements as belonging to the *mahals* then assessed, as well as to all estates bordering on such forests or wastes.

3. It shall be competent to the [7][Local Government] to vest any Collector<sup>[8]</sup> or other officer exercising the powers of Collector within the

[1] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 161.

[2] Portion of the preamble which was repealed by the Amending Act, 1891 (12 of 1891), is omitted.

[3] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

[4] The Bengal Land-revenue Settlement Regulation, 1822. It is printed *ante*, p. 202.

[5] The Bengal Decennial Settlement Regulation, 1793. It is printed *ante*, p. 28.

[6] The words "and Regulations 2 and 22, 1795," which were repealed by the Amending Act, 1891 (12 of 1891), are omitted.

[7] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 635.

[8] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 236.

## (Sec. 4.)

Province[s] of [Bengal,] Bihar [1] or Orissa \* \* [2] with the several powers specified in section 20, Regulation 7, 1822, [3] in the manner specified in the second clause of that section, within such local limits as may, from time to time, appear to be advisable; and the several provisions contained in section 21 and the fourteen following sections shall apply to the several *parganas* or other local divisions so placed under the jurisdiction of the Collector or other officer aforesaid.

4. Whenever an arrear of revenue shall accrue on account of any *mahal* for which an engagement may have been taken by the proprietors or persons recorded as proprietors, not being an estate of which the assessment has been fixed in perpetuity, and the *malguzars* shall fail to discharge the same within one month of the date on which it became due, then, if there shall appear to be any objection to the sale of the estate, and the arrears cannot otherwise be recovered (on which points the decision of the Revenue-authorities is to be held conclusive), it shall be competent to the Collector [4] or other officer exercising the powers of Collector, with the sanction of the Board [5] \* \* \* [6] to annul the existing engagements with the *malguzars*, and to let the *mahal* in farm for such period, not exceeding fifteen years, as the [7] Board of Revenue may appoint, or to hold the *mahal* under *khas* management for a like period.

In such cases, if the *mahal* shall yield a higher *jama* than that for which the *malguzars* may have engaged, the excess shall in the first place be appropriated to the liquidation of the arrear due on account of it, or such portion thereof as the farmer may not have separately agreed to discharge or as may not otherwise have been recovered; and, out of any surplus remaining, the *malguzars* shall receive such *malikana*, not being less than five *per cent.* nor more than ten *per cent.* on the assessment of the last year of their engagement, as the [8] [Local Government] may direct.

[1] This word "or," in s. 3, was inserted by the Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 636.

[2] The words "and Benares," which were repealed by the Amending Act, 1891 (12 of 1891), are omitted.

[3] The Bengal Land-revenue Settlement Regulation, 1822. It is printed, *ante*, p. 202.

[4] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822, s. 35, *ante*, p. 236.

[5] As to the present constitution and powers of the Board of Revenue see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), in Vol. III of this Code.

[6] The words "and subject to the orders of Government," which were repealed by the Bihar and Orissa Decentralization Act, 1916 (B. & O. Act 3 of 1916), s. 2, and Sch. I, are omitted—see Vol. III of this Code.

[7] The words "Board of Revenue" were substituted for the words "Governor General in Council" by *ibid.*

[8] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 636.



(Sec. 5.)

Modification  
of Regula-  
tion 2, 1819.

[<sup>1</sup>] 5. *First*.—The following rules are enacted in modification of sections 5, 6, 8, 10, 11, 13, 15, 22 and 30[<sup>2</sup>] of Regulation 2, 1819.[<sup>3</sup>]

Collector  
making set-  
tlement to  
issue noti-  
fication  
and require  
appearance  
of persons  
holding  
lands free  
of assess-  
ment,

*Second*.—Whenever a Collector[<sup>4</sup>] or other officer exercising the powers of Collector shall visit, or be about to visit, any *mahal* for the purpose of making a settlement in the manner prescribed in Regulation 7, 1822,[<sup>5</sup>] it shall be competent to him, by a notification to be stuck up in some conspicuous place within such *mahal*, and each village thereof, if consisting of several villages, to require all persons holding lands free of assessment or at a fixed *jama*, within or adjoining to the village or villages in which the lands of such *mahal* or any part thereof may be situate, to appear before him either in person or by *vakil* within a reasonable time, not being less than one month from the date of such notification, at such place within the *mahal* as he may select for holding his office, and to attend him from day to day while he may continue within the *mahal*, with all *sanads* or other writings in virtue of which they may possess the lands, or under which the lands may have been, or may be claimed to be, held free of assessment or at fixed *jama*, together with any evidence they may desire to have taken in support of their claims.

may cause  
lands to be  
measured;

*Third*.—It shall likewise be competent to Collectors[<sup>4</sup>] and other officers aforesaid, when engaged in the settlement of any *mahal* under the rules of the Regulation above-mentioned or preparatory thereto, to measure or cause to be measured, without a previous reference to the Board of Revenue,[<sup>6</sup>] all lands, whether *malguzari* or *lakhiraj*, belonging or adjoining to the village or villages in which such *mahal* or any part thereof may be situated.

to give pub-  
lic notice one  
day previous  
to that on  
which it is  
intended to  
hold pro-  
ceedings.

*Fourth*.—When the Collector[<sup>4</sup>] or other officer aforesaid shall have commenced the settlement of any *mahal* in regard to which he may have issued a notification as aforesaid, and shall propose to hear the claims of persons holding lands free of assessment or at a fixed *jama*, and to receive their *sanads* and other writings as aforesaid or any of them, the period fixed in the notification for the attendance of such parties being arrived,

[<sup>1</sup>] As to suits under s. 5, see the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1828 (3 of 1828), s. 10 (3), (5), *post*, pp. 282, 283.

[<sup>2</sup>] S. 30 of Ben. Reg. 2 of 1819 was repealed by the Bengal Land-revenue Resumption Act, 1862 (Ben. Act 7 of 1862), s. 1, and a new provision in lieu thereof was enacted by s. 2 of the same Act, printed in Vol. II of this Code.

[<sup>3</sup>] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 161.

[<sup>4</sup>] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 235.

[<sup>5</sup>] The Bengal Land-revenue Settlement Regulation, 1822. It is printed *ante*, p. 202.

[<sup>6</sup>] As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

## (Sec. 5.)

he shall, on the day preceding that on which he may intend to hold proceedings in the said cases or any of them, notify such intention by an *istahar* stuck up in his office and in some place open to the public within the *mahal*.

*Fifth.*—If any person holding land free of assessment or at a fixed *jama* as aforesaid shall fail to attend either in person or by *vakil*, after notice being given in the manner above prescribed, the Collector<sup>[1]</sup> shall be competent to proceed *ex parte* to investigate the title of such party to hold the land in his possession free of assessment, and with the sanction of the Board of Revenue<sup>[2]</sup> to resume the said lands, if they appear to be held on an invalid title.

Procedure on failure of persons to attend after notice

Nor shall any person defaulting as above, or neglecting to appear and give answer when required to do so, in the manner prescribed in Regulation 2, 1819,<sup>[3]</sup> be entitled to stay the resumption and assessment of his lands under the rule contained in section 22 of that Regulation :

Provided, further, that the rule contained in clause *Second*, section 13, Regulation 2, 1819,<sup>[3]</sup> shall be and be held applicable to such persons, as well as to persons who may appear when summoned under the provisions of that Regulation, or in the manner hereinbefore provided.

*Sixth.*—It shall be competent to Collectors<sup>[1]</sup> and other officers making settlements as aforesaid either to complete the investigation of the claims of persons holding land free of assessment or at a fixed *jama*, under the rules of the 15th and following sections of Regulation 2, 1819,<sup>[3]</sup> with the modifications hereinafter provided, during the progress of the settlement, or to limit their proceedings to the ascertainment of the land actually held under such tenures, and the record of the title-deeds produced by the parties, postponing the further investigation of the case to a future period.

Collector may either complete investigation of claim or limit proceedings to certain points.

When any Collector<sup>[1]</sup> or other officer may postpone the investigation of any case as aforesaid, he shall at the same time notify to the party the time and place at which the further investigation is to be held, or, if circumstances prevent him from doing so, he shall, before resuming the inquiry, give the party one month's notice to attend, and, on the failure of any party to attend when so warned, the Collector<sup>[1]</sup> or other officer aforesaid shall be competent to proceed to try the case *ex parte*, and, with the sanction of the Board,<sup>[2]</sup> to resume and assess the lands.

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 236.

[2] As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[3] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 161.

## (Sec. 5.)

What provisions to regulate investigation of claims to *lakhtiaj* lands.

*Seventh.*—Collectors<sup>[1]</sup> or other officers who may proceed to investigate claims to *lakhtiraj* lands during the progress of a settlement shall follow the rules of the 15th and following sections of Regulation 2, 1819,<sup>[2]</sup> in all cases wherein the parties may attend and deny the liability of their lands to assessment, subject to the modifications hereinafter provided.

Bar to resumption of lands without sanction.

*Eighth.*—No lands shall be resumed by a Collector,<sup>[1]</sup> even though the parties may confess that they are liable to assessment, without the sanction of the Board of Revenue,<sup>[3]</sup> save and except as hereinafter provided; but on such confession duly attested, which will of course supersede the necessity of any further inquiry, it shall be competent to the Board<sup>[3]</sup> forthwith to direct the lands to be assessed, unless the same be held by village or *zamindari* servants in lieu of wages, which shall not be resumed without the sanction of Government:

Procedure by Board.

Provided also that in all cases wherein it may appear to the Board<sup>[3]</sup> that the resumption of lands held free of assessment would occasion serious distress to the holders, it shall be their duty to submit a report of the circumstances to the<sup>[4]</sup> [Local Government].

Regulations applied to investigation by Collectors.

*Ninth.*—The provisions of clause First section 23, \* \* \*<sup>[5]</sup> and section 28, Regulation 7, 1822,<sup>[6]</sup> shall be applicable to cases investigated by Collectors<sup>[1]</sup> under the rules of Regulation 2, 1819<sup>[2]</sup> or under the provisions of this Regulation.

Stamped paper not necessary.

*Tenth.*—It shall not be necessary to use stamped paper for the proceedings held or exhibits filed before the Revenue-authorities in cases originating with a Collector<sup>[1]</sup> or other officer of Government claiming to assess land held free of assessment; but the said authorities are authorized in the said cases, as in all other cases wherein they may exercise judicial powers \* \* \*<sup>[7]</sup> to award to witnesses their reasonable charges, and to levy the same, as well as all costs adjudged by them,

Award of charges to witnesses.

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 236.

[2] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 161.

[3] As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[4] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 635.

[5] The word and figures "section 25" have been omitted in consequence of the repeal made by the Pleaders, Mukhtars and Revenue Agents Act, 1865 (20 of 1865).

[6] The Bengal Land-revenue Settlement Regulation, 1822. It is printed *ante*, p. 202.

[7] The words "under the provisions of the existing Regulations," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

## (Sec. 5.)

by the process<sup>[1]</sup> in force for the recovery of arrears of the Government revenue.

*Eleventh.*—Persons claiming to hold lands exempt from revenue shall, with their petitions of plaint, deliver to the Collector<sup>[2]</sup> or other officer to whom the same may be preferred all *sanads* and other writings on which their claim may be founded; and shall insert in the said petition a full specification of the several particulars required to be registered by the rules in force relative to the registry of rent-free tenures, and of the grounds on which their claim is founded.

Procedure for persons claiming to hold lands revenue-free.

If the claim shall involve only the interests of Government, the Collector<sup>[3]</sup> shall proceed without delay to investigate the case giving, however, eight days' previous notice to the party of the day on which he may propose to bring it to a hearing in the mode prescribed for the Civil Courts.

Investigation.

If the claim shall be against any individual singly or jointly with Government, the Collector<sup>[3]</sup> shall serve him with a notice containing a statement of the demand, and requiring his attendance in person or by *vakil* duly authorized, within the period of one month, with any papers or evidence he may desire to produce in denial of the claim; and, on the appearance of such defendant, the Collector,<sup>[3]</sup> after allowing him to inspect and examine the claimant's petition of plaint, and the writings therein referred to, shall call upon him to deliver, within the period of seven days, a statement of the objections he may desire to urge against the claim.

In such cases no other pleadings shall be required from the parties than a plaint and answer, but it shall and may be lawful for Collectors<sup>[3]</sup> to receive and record such subsidiary pleadings as may appear requisite for the elucidation of the merits of the claim.

Pleadings.

Collectors<sup>[2]</sup> shall proceed to investigate every such case as soon as possible after the answer of the defendant shall be received; giving, however, as aforesaid, eight days' previous notice to the parties of the day on which he may propose to bring it to a hearing :

Provided that, in cases wherein the parties concerned or their authorized representatives shall desire or consent (the same being signified in a written petition of *ikrarnama* to be filed with the proceedings) to have an immediate decision, whether the case shall originate in a claim on

Summary proceedings.

[1] See now the Bihar and Orissa Public Demands Recovery Act, 1914 (B. and O. Act 4 of 1914), ss. 4, 5, and 7, in Vol. III of this Code.

[2] But see s. 2 of the Bengal Land-revenue Resumption Act, 1862 (Ben. Act 7 of 1862), in Vol. II of this Code.

[3] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 236.

## (Sec. 5.)

behalf of Government or in the suit of an individual, and whether the proceedings of the Collector<sup>[1]</sup> shall be held under the provisions of Regulation 2, 1819,<sup>[2]</sup> or under those of this or any other Regulation touching the matter, it shall be competent to the Collector<sup>[1]</sup> to proceed forthwith to the investigation and decision of the case, without issuing any formal summons or notice.

Procedure as  
to land  
appearing to  
belong to  
Government  
and no  
person *bonâ  
fide* in  
possession.

*Twelfth.*—Whenever a Collector<sup>[1]</sup> or other officer exercising the powers of Collector shall be of opinion that any tract of land belongs to Government, and that no individual has *bonâ fide* possession thereof, it shall be competent to him, by a notification to be stuck up in his *cutcherry*, in the Zila Court and in the *cutcherry* of the *kanungo*, *Munsif* or *thanadar* to whose jurisdiction the land in question may belong or adjoin, to require all claimants to the same to appear before him within a reasonable time, to be fixed by the Board of Revenue,<sup>[3]</sup> not being less than six weeks from the date of such notification; and, on the appearance of such claimants, to proceed to investigate their claims in the manner prescribed by Regulation 2, 1819,<sup>[2]</sup> for investigations relative to the liability of lands to be assessed as herein modified:

Provided further that, if the Collector<sup>[1]</sup> or other officer aforesaid shall decide that none of the claimants have *bonâ fide* possession of the lands in question, and his decision shall be affirmed by the Board of Revenue,<sup>[3]</sup> the said lands shall be at the disposal of Government until the same shall be adjudged to be private property by a decree of Court on a regular suit:

Provided also that all such suits, if preferred by one of the claimants before the Collector,<sup>[1]</sup> shall be dismissed, with costs, unless instituted within six weeks of the date on which the Board<sup>[3]</sup> may affirm the decision of that officer, and that the rule contained in clause *Second*, section 13, Regulation 2, 1819,<sup>[2]</sup> shall be strictly applied to such suits: nor shall any such suit be admitted on the part of any person who may not have appeared before the Collector<sup>[1]</sup> pursuant to notice, unless he shall be able to show good and sufficient cause for his non-appearance and shall apply for permission to sue within six weeks of his being informed of the Board's <sup>[3]</sup> decision:

Provided further that, if the party shall not prosecute his suit within six weeks of being permitted to sue, the suit shall be dismissed with costs.

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 236.

[2] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 161.

[3] As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol III of this Code.

(Secs. 6-8.)

6. It shall be competent to the [1][Local Government], by [2] [notification in the local official Gazette], to vest any Collector[3] or other officer who may be deputed to hold a local inquiry within the limits of any *mahal* with the same powers and authority in regard to all lands held free of assessment within or adjoining to the village or villages in which the lands of such *mahal* or any part thereof may be situated, and for the investigation of all claims touching such lands as by the foregoing provisions are vested in Collectors[3] making settlements in the manner prescribed by Regulation 7, 1822,[4] and also from time to time to depute Collectors[3] or other officers aforesaid for the purpose of ascertaining, recording or investigating the said claims in the manner above prescribed.

Power to vest Collector, deputed to hold local inquiry within *mahal*, with same powers in regard to lands held free of assessment in villages adjoining *mahal*.

7. The particulars of all lands held free of assessment within all villages and *mahals* of which the settlement may be made under the provisions of Regulation 7, 1822,[4] shall be fully recorded in the proceedings of the Collector[3] or other officer making the settlement.

Lands held free of assessment to be specified in proceedings.

8. Nothing contained in Regulation 2, 1819,[5] or in any other Regulation in force, shall affect, or be considered to affect, the provisions contained in section 10, Regulation 19, 1793,[6] [7], relative to grants illegally made subsequently to the dates specified in the said[8] [section]; and in all cases in which it shall be established to the satisfaction of the Revenue-authorities that any lands now held free of assessment were subject to the payment of the revenue at the dates aforesaid or subsequently thereto, and that they have not been thereafter exempted from the payment of revenue under the authority of the [1][Local Government] nor adjudged to be exempted from payment of revenue under a regular decree of Court it shall and may be lawful for the said authorities forthwith to resume and assess the said lands; save and except in cases wherein the revenue of the same may belong to a

Saving of certain Regulations.

[1] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 635.

[2] The words "an order in Council," in the original text, are to be read as if the words "notification in the local official Gazette" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 636.

[3] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 236.

[4] The Bengal Land-revenue Settlement Regulation, 1822. It is printed *ante*, p. 202.

[5] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 161.

[6] The Bengal Revenue-free Lands (non-Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 43.

[7] The words and figures "section 11, Regulation 31, 1803, and in the corresponding enactments applicable to Benares and the Conquered Provinces," which were repealed by the Amending Act, 1891 (12 of 1891), are omitted.

[8] This word "section," in s. 8, was substituted for the words "rules respectively" by the Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 636.

(Sec. 9.)

*zamindar, talukdar* or other *malguzar* with whom a permanent settlement has been concluded; nor shall the provisions of section 22, Regulation 2, 1819,[<sup>1</sup>] apply to such cases.

**9.** (*Rules relative to the abolition of the sair duties, etc., applicable to what cesses.*) *Rep. by the Amending Act, 1891 (12 of 1891).*

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[<sup>1</sup>] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed, *ante*, p. 161.

## BENGAL REGULATION 11 OF 1825.

(THE BENGAL ALLUVION AND DILUVION REGULATION, 1825.)<sup>[1]</sup>

(26th May, 1825.)

### A Regulation for declaring the rules to be observed in determining claims to lands gained by alluvion, or by dereliction of a river or the sea.

1. In consequence of the frequent changes which take place in the Preamble.  
channel of the principal rivers that intersect the Provinces immediately subject to the Presidency of Fort William,<sup>[2]</sup> and the shifting of the sands which lie in the beds of those rivers, *chars* or small islands are often thrown up by alluvion in the midst of the stream, or near one of the banks, and large portions of land are carried away by an encroachment of the river on one side, whilst accessions of land are at the same time, or in subsequent years, gained by dereliction of the water on the opposite side; similar instances of alluvion, encroachment and dereliction also sometimes occur on the sea-coast which borders the southern and south-eastern limits of Bengal.

The lands gained from the rivers or sea by the means above-mentioned are a frequent source of contention and affray, and although the law and custom of the country have established rules applicable to such cases, these rules not being generally known, the Courts of Justice have sometimes found it difficult to determine the rights of litigant parties claiming *chars* or other lands gained in the manner above described.

The Court of *Sadar Diwāni Adālat*, with a view to ascertain the legal provisions of the Muhammadan and Hindu laws on this subject,

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<sup>[1]</sup> SHORT TITLE.—This short title was given by the Amending Act, 1897 (5 of 1897), Sch. III—see *post*, p. 547.

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal—see the concluding paragraph of s. 1, *post*, p. 264.

It has been declared by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1873-86, Ed. 1928, p. 48), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It is in force in the Sonthal Parganas—see Vol. IV, Part IV; but its application is barred in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 768.

FURTHER ENACTMENTS.—For further enactments, in force in Bengal, relating to Alluvion and Diluvion, see—

the Bengal Alluvion and Diluvion Act, 1847 (9 of 1847), *post*, p. 306.

the Bengal Alluvial Land Settlement Act, 1858 (31 of 1858), *post*, p. 343, and

the Bengal Alluvion (Amendment) Act, 1868 (Ben. Act 4 of 1868), in Vol. II of this Code.

As to the application of the Bengal Tenancy Act, 1885 (8 of 1885), to alluvial land, see s. 180 of that Act, *post*, p. 497.

<sup>[2]</sup> This includes the present Province of Bihar and Orissa except the district of Sambalpur.



## (Secs. 2-4.)

called for reports from their law officers of each persuasion, and on consideration of the reports furnished by the law officers in consequence, as well as of the decisions which have been passed by the Court of *Sadar Diwāni Adalat* in cases brought before them in appeal which involved the rights of claimants to lands gained by alluvion, or by dereliction of rivers or the sea, the Governor General in Council has deemed it proper to enact the following rules for the general information of individuals as well as for the guidance of the Courts of Judicature, to be in force, as soon as promulgated, throughout the whole of the Provinces subject to the Presidency of Fort William<sup>[1]</sup> :—

Claims and disputes as to alluvial lands to be decided by usage when clearly recognised and established.

2. Whenever any clear and definite usage of *shikast paiwast* respecting the disjunction and junction of land by the encroachment or recess of a river may have been immemorially established, for determining the rights of the proprietors of two or more contiguous estates divided by a river (such as that the main channel of the river dividing the estates shall be the constant boundary between them, whatever changes may take place in the course of the river, by encroachment on one side and accession on the other), the usage so established shall govern the decision of all claims and disputes relative to alluvial land between the parties whose estates may be liable to such usage.

Where no usage established, claims how decided.

3. Where there may be no local usage of the nature referred to in the preceding section, the general rules declared in the following section shall be applied to the determination of all claims and disputes relative to lands gained by alluvion or by dereliction either of a river or the sea.

Lands gained by gradual accession from recess of river or sea.

4. <sup>[2]</sup>*First*.—When land may be gained by gradual accession, whether from the recess of a river or of the sea, it shall be considered an increment to the tenure of the person to whose land or estate it is thus annexed, whether such land or estate be held immediately from Government by a *zamindar* or other superior landholder, or as a subordinate tenure by any description of under-tenant whatever :

Extent of interest in increment of person in possession.

Provided that the increment of land thus obtained shall not entitle the person in possession of the estate or tenure to which the land may be annexed to a right of property or permanent interest therein beyond that possessed by him in the estate or tenure to which the land may be annexed, and shall not in any case be understood to exempt the holder of it from the payment to Government of any assessment for the public revenue to which it may be liable under the provisions of Regulation 2, 1819,<sup>[3]</sup> or of any other Regulation in force.

[1] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

[2] For saving of rights of under-tenants in alluvial land under this clause, see the Bengal Alluvial Land (Settlement) Act, 1858 (31 of 1858), s. 2, *post*, p. 344.

[3] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 161.

## (Sec. 4.)

[<sup>1</sup>]Nor, if annexed to a subordinate tenure held under a superior landholder, shall the under-tenant, whether a *khudkásht rayat*, holding a *maurúsi istimrári tenure* at a fixed rate of rent per *biqha*, or any other description of under-tenant liable by his engagements, or by established usage, to an increase of rent for the land annexed to his tenure by alluvion, be considered exempt from the payment of any increase of rent to which he may be justly liable.

*Second.*—The above rule shall not be considered applicable to cases in which a river, by a sudden change of its course, may break through and intersect an estate, without any gradual encroachment, or may by the violence of stream separate a considerable piece of land from one estate and join it to another estate, without destroying the identity and preventing the recognition of the land so removed.

When river by sudden change of course intersects estate.

In such cases the land, on being clearly recognized, shall remain the property of its original owner.

*Third.*—When a *char* or island [<sup>2</sup>] may be thrown up in a large navigable river (the bed of which is not the property of an individual), or in the sea, and the channel of the river or sea between such island and the shore may not be fordable, it shall, according to established usage, be at the disposal of Government.

*Chars* thrown up in navigable river.

But if the channel between such island and the shore be fordable at any season of the year, it shall be considered an accession to the land tenure or tenures of the person or persons whose estate or estates may be most contiguous to it, subject to the several provisions specified in the first clause of this section with respect to increment of land by gradual accession.

Property therein when channel fordable.

*Fourth.*—In small and shallow rivers, the beds of which, with the *Jalkar* right of fishery, may have been heretofore recognized as the property of individuals, any sand-bank or *char* that may be thrown up shall, as hitherto, belong to the proprietor of the bed of the river, subject to the provisions stated in the first clause of the present section.

*Chars, etc.* thrown up in small shallow rivers.

*Fifth.*—In all other cases, namely, in all cases of claims and disputes respecting land gained by alluvion or by dereliction of a river or the sea,

Disputes relative to

[<sup>1</sup>] This paragraph of s. 4, clause *First*, is repealed by s. 2 (I) of the Bengal Tenancy Act, 1885 (8 of 1885), *post*, p. 402, in the whole of the former Province of Bengal "except the town of Calcutta, the Division of Orissa and the Scheduled Districts." The extension of the repeal to Scheduled Districts depends upon the terms of notifications extending the Act of 1885 to such districts. It has now been repealed for the Orissa Division by the Orissa Tenancy Act, 1913 (B. and O. Act 2 of 1913), s. 2, Sch. I, Part I, in Vol. III of this Code.

[<sup>2</sup>] The Revenue-authorities are to take immediate possession of such islands, and to assess and settle the land—see the Bengal Alluvion (Amendment) Act, 1868 (Ben. Act 4 of 1868), s. 3, in Vol. II of this Code.

For further provisions as to such islands, see also *ibid*, ss. 4 to 8.

Lands gained by gradual accession to such islands are to be at the disposal of the Government—see *ibid*, s. 2.

(Sec. 5.)

lands  
gained  
by alluvion  
or by  
dereliction  
not provided  
for by  
Regulation.

which are not specifically provided for by the rules contained in this Regulation, the Courts of Justice, in deciding upon such claims and disputes, shall be guided by the best evidence they may be able to obtain of established local usage, if there be any applicable to the case, or, if not, by general principles of equity and justice.

Encroach-  
ments on  
beds of  
navigable  
rivers and  
other  
obstructions.

5. Nothing in this Regulation shall be construed to justify any encroachments by individuals on the beds or channels of navigable rivers, or to prevent *Zila* \* \* \*<sup>[1]</sup> Magistrates or any other officers of Government who may be duly empowered for that purpose from removing obstacles which appear to interfere with the safe and customary navigation of such rivers, or which shall in any respects obstruct the passage of boats by tracking on the banks of such rivers, or otherwise.

<sup>[1]</sup> The words "and City," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

## BENGAL REGULATION 13 OF 1825.

[THE BENGAL LAND-REVENUE SETTLEMENT (RESUMED KANUNGOS AND REVENUE-FREE LANDS) REGULATION, 1825.][<sup>1</sup>]

(7th July, 1825.)

**A Regulation to maintain the settlement made for certain lands held exempt from the payment of revenue by *kanungos* in the Province of Bihar: and to provide for the future settlement of such lands, as well as of the lands composing other resumed *lakhiraj* tenures, with the present occupants, when so directed by Government.**

**1.** [Whereas it was enacted by section 5, Regulation 2 of 1816,<sup>[2]</sup> **Preamble.** that the revenue of lands held by *kanungos* generally in the Province of Bihar, in virtue of their offices, should be liable to resumption; and accordingly under that law, various resumptions of land so held took place, and the parties to whom the *zamindari* interest in the same appeared to belong were admitted to engage for the Government revenue; but, on the consideration of the proceedings held under the provisions of the above rule, it appeared to the Governor General in Council to be improper wholly to deprive the *kanungos* or their representatives of the advantages derived from such lands, and enjoyed by them for a long course of years; and it was accordingly resolved by Government, on the 14th February, 1822, that in cases where the lands had been occupied and managed by the *kanungos* or their representatives, and the rents received by them, they should be replaced in possession of such lands, and a settlement made with them on the principle prescribed by clause second, section 8, Regulation 19 of 1793,<sup>[3]</sup> namely, the revenue

[<sup>1</sup>] **SHORT TITLE.**—This short title was given by the Amending Act, 1903 (1 of 1903,) Sch. I—see *post*, p. 622.

**LOCAL EXTENT.**—This Regulation was passed for the whole of the former Province of Bengal—see the concluding paragraph of s. 1, *post*, p. 268.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1873-86, Ed. 1928, p. 48), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the districts of Hazaribagh and Manbhum, and Pargana Dhalbhum in the district of Singhbhum in the Chota Nagpur Division, see Vol. IV, Part III.

The Regulation is in force in the Sonthal Parganas, see Vol. IV, Part IV; but its application is barred in the district of Angul by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 768.

[<sup>2</sup>] Ben. Reg. 2 of 1816 was repealed by the Repealing Act, 1868 (8 of 1868).

[<sup>3</sup>] The Bengal Revenue-free Lands (non-Badshahi Grants) Regulation, 1793.

S. 8 is printed *ante*, p. 51.

## (Sec. 2.)

to be paid to Government to be equal to one-half of the annual produce (or rental) of the lands, calculated according to the rates at which other lands in the pargana of a similar description may be assessed, securing to the proprietors of the soil such *malikana* or other allowance as they might have received prior to the resumption of the official *minha* tenure;

And whereas the existing laws relative to the settlement of resumed *lakhiraj* tenures are not properly applicable to the case, and it appears to be expedient expressly to provide for the maintenance by the Courts of Judicature of the arrangement above described, in order that the *kanungo minhadars* may be secured in the possession (subject to the quit-rent fixed by Government) of the lands, rents and produce heretofore possessed by them;]

And whereas it is desirable to provide for the settlement, on the same principle, of any lands that may be resumed under the corresponding rules relating to *kanungos* and their official tenures in other parts of the country;

And whereas it appears to be generally expedient to make a distinct provision for securing to the holders of *lakhiraj* lands resumed by the officers of Government, and assessed on the principle prescribed in clause Second, section 8, Regulation 19, 1793<sup>[1]</sup> the benefits which that law was designed to bestow, and to declare the competency of Government, in other cases, to continue the persons who have heretofore occupied lands free of assessment, or their representatives, in the possession of the same, notwithstanding such lands being made subject to assessment;

The following rules have been enacted for these purposes respectively, to be in force throughout the territories subject to the Presidency of Fort William<sup>[2]</sup> from the date of the promulgation of this Regulation.

Power to  
continue  
*minhadars*  
and their  
heirs in  
possession  
of resumed  
lands.

\*2. In case of *lakhiraj* tenures resumed under the provisions of Regulation \* \* \*<sup>[3]</sup> 5, 1816,<sup>[4]</sup> or any other Regulation in force relative to lands held by *kanungos* by virtue of their offices, where the *minha* or *lakhiraj* tenure, and the right of property in the land, are vested in distinct parties, it shall be competent to the <sup>[5]</sup>[Local Government] by

[1] The Bengal Revenue-free Lands (non-Badshahi Grants) Regulation, 1793. S. 8 is printed ante, p. 51.

[2] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

[3] The words and figures "4, 1808, Regulations 2 and," which were repealed by the Amending Act, 1891 (12 of 1891), are omitted.

[4] The Bengal Kanungos Regulation, 1861. It is printed ante, p. 126.

[5] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, post, p. 636.

\* Ss. 2 and 3 have been repealed for the Orissa Division by the Orissa Tenancy Act, 1913 (B. and O. Act 2 of 1913), s. 2, Sch I, Part I, in Vol. III of this Code.

(Secs. 3-4.)

instruction to the Revenue Board<sup>[1]</sup> or other authority empowered to make the resumption, to continue the *minhadars* and their heirs in possession and management of such lands, subject to such assessment as <sup>heretofore held as *lakhiraj* by *kanungos*.</sup> <sup>[2]</sup>[it] shall judge it proper to direct; and the parties claiming the *zamindari* interest or other proprietary right in such *mahals* shall not be entitled to any land-rent, produce or profit beyond what they may have enjoyed up to the period of the resumption of the tenure, or would have been entitled to receive, in the event of Government having confirmed the same in perpetuity, free of assessment.

Persons, consequently, claiming to be *maliks* of the said lands, who, during the continuance of the *lakhiraj* tenure, had not possession of the same, whether they received a *malikana* allowance or otherwise, shall not disturb the possession of the *minhadars* or their heirs and representatives, in any case wherein the <sup>[3]</sup>[Local Government] may have sanctioned such possession; and any suit preferred by such persons in a Court of Judicature to recover possession, contrary to the intent and meaning of this rule, shall be dismissed with costs :

Provided, however, that in all cases of the nature abovementioned, wherein the *zamindar* or other proprietor of the land may have received *malikana* or other proprietary due during the existence of the *lakhiraj* tenure, he shall continue to receive the same, notwithstanding the resumption of the *lakhiraj*, in like manner as if such resumption had not taken place.

\*3. The tenures of the *minhadars* which have been confirmed to them with the sanction of Government by the arrangement referred to in the preamble of this Regulation, or which may be so confirmed in conformity with the preceding section, are declared to be hereditary and transferable; but, should they escheat to Government, the parties possessing a *zamindari* interest or other proprietary right in the lands will be admitted to engage for the revenue subject to a fresh assessment to be adjusted on the actual assets under the general <sup>Tenures of *minhadars* so situated declared hereditary and transferable.</sup> <sup>[4]</sup>[law].

4. The principles of sections 2 and 3 of this Regulation shall be considered applicable to all cases of *lakhiraj* resumption under the general Regulations in force, which may come within the favourable rule of <sup>Foregoing sections applied to certain *lakhiraj* resumptions</sup>

[1] As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[2] The word "he," in the original text, is to be read as if the word "it" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 636.

[3] The words "Governor General in Council," in the original text, are to be read if the words "Local Government" were substituted therefor—see *ibid*.

[4] The word "law," in s. 3, was substituted for the word "Regulations," by *ibid*.

\* Ss. 2 and 3 have been repealed for the Orissa Division by the Orissa Tenancy Act, 1913 (B. and O. Act 2 of 1913), s. 2, Sch. I, Part I, in Vol. III of this Code.

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*(Resumed Kanungos and Revenue-free Lands) Regulation, 1825.*

(Sec. 5.)

assessment contained in the second clause of section 8, Regulation 19, 1793<sup>[1]</sup>, in the Province[s] of [*Bengal,*] Bihar and Orissa \* \* \*<sup>[2]</sup> it being the evident intention of the rule in question that it should be applied to persons who had been long in possession of the *lakhiraj* tenures made subject to assessment by<sup>[3]</sup> [the Regulation] above cited, and whom it appeared equitable, in consideration of their long possession, to leave in occupancy of the lands composing their respective tenures, at a moderate assessment, not exceeding a moiety of the annual rent produce.

Modifications  
of enact-  
ments  
relative to  
settlement  
of resumed  
*jagir*,  
*altamgha*,  
*madadmash*,  
*aima* or  
other  
*badshahi*  
grants, and  
to resump-  
tion of  
*lakhiraj*  
tenures.

5. In modification of the existing rules contained in [<sup>[4]</sup>Regulation] 37, 1793,<sup>[5]</sup> \* \* \* \*<sup>[6]</sup> or any other Regulation in force, relative to the settlement of resumed *jagir*, *altamgha*, *madadmash*, *aima* and other grants of land termed *badshahi* or royal; and generally in qualification and explanation of all the rules in force relative to the resumption of *lakhiraj* tenures, and the future assessment of lands composing the same, it is hereby further declared that whenever such tenures may be pronounced invalid or extinct by a Revenue Board [<sup>[7]</sup> or other authority empowered to investigate the *lakhiraj* title in such tenures, under the provisions of Regulation 2, 1819,<sup>[8]</sup> or of any other Regulation in force, it shall be competent to the [<sup>[9]</sup>Local Government], on a special report of the circumstances of the case, when it may appear just and proper in consideration of the long possession of the actual occupant of the land or of his ancestors, to direct his continuance in possession, though not the *zamindar*, *talukdar* or other *malik* of the land, on his engagement for the future assessment on such terms as may be prescribed by Government, and in such cases the whole of the provisions contained in sections 2 and 3 of this Regulation shall be deemed applicable, and be maintained by the Courts of Judicature accordingly.

[1] The Bengal Revenue-free Lands (non-Badshahi Grants) Regulation, 1793. S. 8 is printed *ante*, p. 51.

[2] The words and figures "or the second clause of section 8, Regulation 41, 1795, in the Province of Benares," which were repealed by the Amending Act, 1891 (12 of 1891), are omitted.

[3] The words "the Regulation," in s. 4, were substituted for the words "the Regulations" by *ibid.*

[4] The word "Regulation," in s. 5, was substituted for the word "Regulations" by *ibid.*

[5] The Bengal Revenue-free Lands (Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 60.

[6] The figures and word "42, 1795, and 36, 1803," which were repealed by the Amending Act, 1891 (12 of 1891), are omitted.

[7] As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[8] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 161.

[9] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 636.

## BENGAL REGULATION 14 OF 1825.

(THE BENGAL REVENUE-FREE LANDS REGULATION, 1825.)<sup>[1]</sup>

(14th July, 1825.)

**A Regulation to declare the extent of the authority possessed by the Revenue-authorities, subordinate to the Governor General in Council, in the confirmation of *lakhiraj* tenures ; to define the principles to be followed in determining on the force and validity of grants made by persons exercising authority in different quarters previously to the acquisition of the country by the British Government \* \* \* .<sup>[2]</sup>**

**1.** Whereas doubts have arisen as to the extent of the authority **Preamble.** possessed by the Revenue-authorities subordinate to the Governor General in Council in regard to the confirmation of *lakhiraj* tenures, which it is expedient to remove; and it is also desirable further to define the principles to be followed in determining on the force and validity of grants made by persons exercising authority in different quarters, previously to the acquisition of the country by the British Government; \* \* \* .<sup>[2]</sup>

And whereas it is enacted by clause *first*, section 26, Regulation 2, 1819,<sup>[3]</sup> that in suits instituted in the *Zila* Courts to contest the decisions passed by the Revenue Boards under the provisions of that Regulation, \* \* \* <sup>[2]</sup> an appeal shall be received by the *Sadar Diwani Adalat* \* \* \* <sup>[4]</sup> and it appears to be expedient that \* \* \* <sup>[5]</sup> cases wherein the

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<sup>[1]</sup> **SHORT TITLE.**—This short title was given by the Amending Act, 1903 (1 of 1903), Sch. I—*see post*, p. 622.

**LOCAL EXTENT.**—This Regulation was passed for the whole of the former Province of Bengal—*see* the concluding paragraph of s. 1, *post*, p. 272.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1873-86, Ed. 1928, p. 48), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the districts of Hazaribagh and Manbhum, and Pargana Dhalbhum in the district of Singhbhum in the Chota Nagpur Division, *see* Vol. IV, Part III.

It is in force in the Sonthal Parganas, *see* Vol. IV, Part IV, but its application is barred in the district of Angul, by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 768.

<sup>[2]</sup> Portion repealed by the Amending Act, 1903 (1 of 1903), is omitted.

<sup>[3]</sup> The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 161.

<sup>[4]</sup> The words "on special grounds only," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

<sup>[5]</sup> The words "the above restriction should not apply to," which were repealed by *ibid*, are omitted.



(Sec. 2.)

decision of the Court may be opposed to the judgment of the Board of Revenue,<sup>[1]</sup> or other authority exercising the powers of that Board, " \* <sup>[2]</sup> should be open to a regular appeal,

the following rules have been enacted, in addition to, and in modification of, the provisions of Regulations 19<sup>[3]</sup> and 37,<sup>[4]</sup> 1793, \* \* <sup>[5]</sup> of such parts of <sup>[6]</sup>[Regulation] 12, <sup>[7]</sup> 1805, as refer to *lakhiraj* lands, and of Regulation 2, 1819,<sup>[8]</sup> to be in force from the date of their promulgation throughout the Provinces immediately subject to the Presidency of Fort William<sup>[9]</sup>.

*Lakhiraj*  
tenures  
under what  
circum-  
stances  
alone valid.

2. It is hereby declared and enacted that the power of granting *lakhiraj* tenures, namely, tenures of land exempt from the public assessment, either for life or in perpetuity, as well as of confirming such tenures excepting by a regular judgment passed after a judicial inquiry, belongs, and always has belonged, exclusively to the Supreme Government; and no act, order or decision granting or confirming any tenure as aforesaid within any of the territories subordinate to this Presidency, after the annexation of such territories to the British dominions, shall be held valid, unless the same shall have been done, issued or passed by or under the immediate directions of the <sup>[10]</sup>[Local Government] or by some officer expressly authorized by Government to grant or confirm such tenures, or with respect to the confirmation of grants duly authorized by some competent Court of Judicature in a suit regularly tried and decided by it, or by one of the Revenue Boards<sup>[1]</sup> acting in a judicial capacity, under the rules of Regulation 8, 1811, whilst that Regulation (rescinded by section 2 of Regulation 2, 1819,<sup>[8]</sup>) was in force; and subsequently under the rules of Regulation 2, 1819,<sup>[8]</sup> or any other Regulation expressly empowering the Revenue Boards,<sup>[1]</sup> after full

[1] As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[2] The words "but that such cases," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[3] The Bengal Revenue-free Lands (non-Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 43.

[4] The Bengal Revenue-free Lands (Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 60.

[5] The words and figures "Regulations 41 and 42, 1795, Regulations 31 and 36, 1803," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[6] The word "Regulation" was substituted for the words and figures "Regulation 8 and" by *ibid.*

[7] The Cuttack Land-revenue Regulation, 1805. It is printed *ante*, p. 88.

[8] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 161.

[9] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

[10] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 636.

(Sec. 3.)

investigation of claims to exemption from assessment under the general rules applicable to *lakhiraj* tenures, to pronounce a decision against the assessment, to be considered final, except on proof, in a Court of Judicature, of fraud or collusion in the previous inquiry :

Provided also that no resolution or order passed by \* \* \*<sup>[1]</sup> the Board of Revenue<sup>[2]</sup> or other authority exercising the powers of that Board, whereby the right of Government to assess any *lakhiraj* lands may have been relinquished or postponed, save and except decisions regularly passed according to the rules above cited, shall operate to the prejudice of Government, or be held to bar the Revenue-authorities from proceeding for the recovery of public dues under the provisions of Regulation 2, 1819,<sup>[3]</sup> or any other rules in force relative to the resumption of *lakhiraj* tenures held under invalid grants.

3. *First.*—The following principles are to be observed in determining the force and validity of grants made by persons exercising authority in the Provinces subordinate to this Presidency,<sup>[4]</sup> previously to the acquisition of the country by the British Government. Trial of validity of grants.

*Second.*—*Lakhiraj* tenures of which uninterrupted possession shall have been held exempt from assessment at and subsequently to the periods undermentioned shall be, and be considered to be, valid, without evidence to any formal grant or confirmation of the same, and shall be continued to heirs in cases in which it may be clearly shown, from the nature and denomination of the tenure, that it is hereditary according to the ancient usage of the country, namely, the 12th August, 1765, if the tenure be in [*Bengal*], Bihar and Orissa (excepting Cuttack); the 14th October 1719, if the tenure be in Cuttack including [*Pataspur or its dependencies*]; \* \* \*<sup>[5]</sup> : *Lakhiraj* tenures, of which uninterrupted possession has been held, declared valid, etc.

Provided, however, that the above rule shall not apply to cases of derivative tenures, wherein it may appear that the tenure is derived from a *jagirdar* or other person, who, at any of the periods above specified, held lands free of assessment under a temporary or conditional tenure.

[1] The words "the Lieutenant-Governor and the Board of Commissioners, in the Ceded and Conquered Provinces," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[2] As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[3] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819 It is printed *ante*, p. 161.

[4] This includes the present Province of Bihar and Orissa except the district of Sambalpur

[5] Portion repealed by the Amending Act, 1903 (1 of 1903), is omitted.

## (Sec. 3.)

In all such cases the parcels of the land so held shall follow the condition of the principal tenure, and, if that be resumable, will consequently be liable to resumption.

Proof of title to hold or recover *lakhiraj* tenure to rest on claimants.

*Third.*—The proof of possession in the cases provided for by the preceding clause, and (in the case of persons not the original grantees) of the hereditary nature of the tenure, shall be on the parties claiming to hold or recover the *lakhiraj* tenure; the general principle being that the ruling Power is entitled to a certain proportion of the produce of every *bigha* of land, excepting so far as it shall have transferred, relinquished or compounded its right thereto; and all parties claiming the benefit of such exemptions being bound to establish their respective claims and titles.

One or more successions before period specified not to establish title of inheritance.

*Fourth.*—Provided also that, although one or more successions to any tenure as aforesaid may have taken place before the periods specified in the second clause, the fact shall not be taken to establish a title of inheritance, unless the tenure be clearly of an hereditary nature, or unless the right of inheritance therein shall have been admitted by the [1][Local Government] on a reference made to Government according to the rules in force applicable to such cases.

Potentates and authorities recognizable by Courts, etc.

*Fifth.*—The Courts of Judicature and Revenue-authorities shall not recognise any potentate or person as having been vested with the supreme power within any part of the Provinces subordinate to this Presidency.[2] save and except the Kings of Delhi, the *Subadurs* of Bengal, Bihar and Orissa, and the several authorities specified in \* \* \*[3], [4][Regulation] 12, 1805[5], \* \* \*[6].

If in any case grants shall be produced purporting to have been made or confirmed by any other person than as aforesaid, alleged to have been vested with the supreme power for the time being, and it shall appear to the Court or other authority investigating the same that the plea is well founded, the Court or other authority before whom the case may be pending shall, before passing any decision thereupon, refer the point to the [1][Local Government] and be guided by [7][its] determination.

[1] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 636.

[2] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

[3] The words and figures "Regulation 42, 1795, Regulation 36, 1803, and," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[4] The word "Regulation" was substituted for the words and figure "Regulations 8 and" by *ibid.*

[5] The Cuttack Land-revenue Regulation, 1805. It is printed *ante*, p. 88.

[6] Portion repealed by the Amending Act, 1903 (1 of 1903), is omitted.

[7] The word "his," in the original text, is to be read as if the word "its" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 636.

(Sec. 3.)

*Sixth*—To the validity of grants made or confirmed by the Kings of Delhi or by any of the Rulers aforesaid, it is and shall be held to be necessary—

Conditions requisite to establish validity of grants by such potentates, etc.

1st, that they were made or confirmed within the period during which the person granting or confirming the same possessed and exercised supreme power within the territory in which the lands specified in the grant are situate

2nd, that the grantee actually and *bonâ fide* obtained possession of the land granted within the said period :

3rd, that the grant was not subsequently resumed by the officer or the orders of the Government for the time being previously to the acquisition of the country by the British Government, or, if so resumed, that the competence of the officer to resume shall have been expressly disallowed by the [1][Local Government]

*Seventh*.—The following shall be held, for the purposes specified in this Regulation, to be the periods at which the several Provinces subordinate to this Presidency were acquired by the British Government, namely, for [Bengal], Bihar and Orissa (excepting Cuttack), the 12th August, 1765; \* \* \* [2] for the Province of Cuttack, [Palaspur and its dependencies], the 14th October, 1803 \* \* \* [2]

Periods at which provinces subordinate to Presidency of Fort William were acquired by British Government.

*Eighth*.—To the validity of grants not made or confirmed by the Supreme Power (excepting tenures of long possession described in the second clause of this section), it shall be held to be necessary—

Conditions necessary to the validity of grants not made or confirmed by Supreme Power.

1st, that they were made or confirmed by some authority which the [1][Local Government] shall have expressly declared competent to make or confirm the same ;

2nd, that the grantee actually and *bonâ fide* obtained possession of the land granted, and that the revenue of the land was not subsequently resumed by competent authority.

*Ninth*.—Provided also that in cases in which any *lakhiraj* tenure may have been resumed previously to the acquisition of the country by the British Government, the determination of the question whether the officer by whom or by whose order the resumption may have been made was legally competent to do so shall, in all cases wherein it may be necessary to determine this question, rest with the [1][Local Government].

Decision of questions regarding *lakhiraj* tenures, resumed previously to acquisition of country by Government

[1] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 636.

[2] Portion repealed by the Amending Act, 1903 (1 of 1903), is omitted.

(Secs. 4-6.)

Moreover, all questions touching the validity of grants made or confirmed by any officer subordinate to the Supreme Power, or the legal effect of resumption by any such officer which may not have been expressly provided for by the Regulations, and which may be material to the decision of any suit or inquiry, shall be referred by the Courts of Judicature or other authorities making the investigation to the [1][Local Government] for determination unless the powers and competence of the officer in question shall have been previously determined by Government.

Saving of  
lands  
devoted to  
religious or  
charitable  
uses.

4. Nothing in this Regulation shall be construed to affect the provisions contained in Regulation 19, 1793,[2] \* \* \* [3] and Regulation 12, 1805,[4] relative to lands not exceeding ten *bighas* of which the produce is *bond fide* appropriated to religious or charitable uses.

5. (*Revision of decisions passed before commencement of Regulation.*)  
*Rep. by the Repealing Act, 1873 (12 of 1873).*

Modification  
of Regula-  
tion 2, 1819.  
section 26.

6. In modification of the rules contained in section 26, Regulation 2, 1819,[5] it is hereby enacted that in cases wherein a *Zila* Court shall annul or alter a judgment passed by the Board of Revenue[6] or other authority exercising the powers of that Board under the provisions of the above-mentioned Regulation, a regular appeal shall lie \* \* \* [7].

The provisions of the above-mentioned section shall however still be applicable to cases in which the *Zila* \* \* \* [8] Courts may maintain the decision of the [9][Board of Revenue][6] or other authorities exercising the powers of [9][that Board].

[1] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 636.

[2] The Bengal Revenue-free Lands (non-Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 43.

[3] The words and figures "Regulation 41, 1795, Regulation 31, 1803," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[4] The Cuttack Land-revenue Regulation, 1805. It is printed *ante*, p. 88.

[5] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. S. 26 is printed *ante*, p. 173.

[6] As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[7] Portion repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

[8] The words "or Provincial," which were repealed by *ibid*, are omitted.

[9] The words "Board of Revenue" and "that Board" were substituted for the words "Revenue Boards" and "these Boards" respectively, by the Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 636.

For saving of appeals under s. 6, see the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1828 (3 of 1828), s. 10(4), *post*, p. 283.

## BENGAL REGULATION 3 OF 1827.

(THE BENGAL CORRUPTION AND EXTORTION REGULATION, 1827.)<sup>[1]</sup>

(1st November, 1827.)

**A Regulation for modifying and amending the rules in force relative to the law officers and ministerial Native officers of the Courts of Judicature, who may be guilty of corruption or extortion.**

**1 to 4.** (*Preamble; amendments; no fine to be awarded in Civil Court for corruption or extortion; criminal prosecution not to depend on civil action.*) *Rep. by the Repealing Act, 1874 (16 of 1874).*

**5.** From and after the date of this Regulation, it shall not be necessary for any party from whom money or property may have been corruptly taken or extorted to institute a civil action for the recovery thereof; but, on proof of the charge in a criminal prosecution for those offences, a certified copy of the conviction by <sup>[2]</sup>[the Court] shall be received as sufficient authority for enforcing the refund of the amount or value so taken, with interest, on application to that effect being preferred by the aggrieved party to the Civil Court, \* \* \* <sup>[3]</sup>.

Record of criminal conviction sufficient for compelling refund of property corruptly taken or extorted.

**6.** (*Amount of embezzlement to be paid in first instance from public treasury.*) *Rep. by the Repealing Act, 1874 (16 of 1874).*

<sup>[1]</sup> SHORT TITLE.—This short title was given by the Amending Act, 1897 (5 of 1897), Sch. III—*see post*, p. 547.

LOCAL EXTENT.—This Regulation (s. 5) has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1873-86, Ed. 1928, p. 48), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the districts of Hazaribagh, Ranchi, Palamau and Manbhum and Pargana Dhalbhum in the district of Singhbhum in the Chota Nagpur Division—*see* Vol. IV, Part III.

The application of the Regulation is barred—

in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 768; and

in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, *post*, p. 700.

<sup>[2]</sup> The words "the Court" were substituted for the words "a Court of Circuit or the *Nizam Adalat*" by the Amending Act, 1903 (1 of 1903), Sch. II—*see post*, p. 637.

<sup>[3]</sup> The words "on the stamped paper prescribed for miscellaneous petitions," which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

## BENGAL REGULATION 5 OF 1827.

(THE BENGAL ATTACHED ESTATES MANAGEMENT REGULATION, 1827.)<sup>[1]</sup>

(27th December, 1827.)

**A Regulation for modifying the rules at present in force for the management of estates under attachment by orders of the Courts of Justice in certain cases.**

### Preamble.

1. Whereas it is expedient in all cases of the attachment of landed property under orders of the Courts of Justice that the management of the estate attached should be placed under the superintendence of the Collectors of land-revenue, the following rules have been enacted by the Governor General in Council, to be in force, from the date of their promulgation, throughout the territories immediately subject to the Presidency of Fort William<sup>[2]</sup>.

Modification  
of Regula-  
tions regard-  
ing manage-  
ment of  
estates under  
attachment.

2. The rules contained in sections 5 and 6, Regulation 5, 1799,<sup>[3]</sup> \* \* \*<sup>[4]</sup> regarding the administration and management of estates under orders of the *Zila* \* \* \*<sup>[5]</sup> Courts, are hereby declared subject to the following modifications.

Issue of  
precept for  
holding

3. Whenever the *Zila* \* \* \*<sup>[6]</sup> Courts may deem it just and proper, under the provisions of the <sup>[6]</sup>[Regulation] above mentioned, to provide

[1] SHORT TITLE.--This short title was given by the Amending Act, 1897 (5 of 1897), Sch. III—*see post*, p. 547.

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal—*see s. 1*.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (quoted in General Acts, 1873-86, Ed. 1928, p. 48), to be in force throughout the former Province of Bengal except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the districts of Hazaribagh, Ranchi, Palamau and Manbhum, and Pargana Dhalbhum in the district of Singhbhum in the Chota Nagpur Division—*see Vol. IV, Part III*.

The application of the Regulation in the de-regulationised tracts in Bihar and Orissa is barred as follows, namely:—

in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 768.

in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, *post*, p. 700.

[2] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

[3] The General Wills and Intestacy Regulation, 1799. It is printed *ante*, p. 75.

[4] The words and figures "and clauses 5 and 6, s. 16, Regulation 3, 1803," and "and ss. 26 and 27, Regulation 5, 1812, and clause *Third*, s. 5, Regulation 6, 1813," which were repealed by the Amending Act, 1903 (1 of 1903), and the Repealing Act, 1874 (16 of 1874), respectively, are omitted.

[5] The words "and City," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[6] The word "Regulation," in s. 3, was substituted for the words "several Regulations" by the Amending Act, 1903 (1 of 1903), Sch. II—*see post*, p. 637.

(Sec. 4.)

for the administration or management of landed property, the Court shall issue a precept to the Collector<sup>[1]</sup> of land-revenue of the district wherein the estate may be situated, directing him to hold the estate in attachment, and to appoint a person for the due care and management of the estate, under good and adequate security for the faithful discharge of the trust, in a sum proportionate to the extent thereof : estates under attachment and for appointing managers.

Provided, however, that if any person holding an interest in the estate shall be dissatisfied with the selection made by the Collector<sup>[1]</sup> of the individual to perform the duty in question, or with the conduct of the manager at any time after his appointment, it shall be competent to such person to represent his objections to the Board of Revenue,<sup>[2]</sup> and the Board<sup>[2]</sup> will either confirm the manager chosen, or order the Collector<sup>[1]</sup> to appoint another person, as on consideration of the circumstances of the case may appear reasonable and proper.

4. The precept of the *Zila* \* \*<sup>[3]</sup> Court above-mentioned shall state specifically the property to be included in the attachment, and the attachment shall not be withdrawn without a further precept from the Court to that effect. Precept to state property included in attachment.

[1] As to the exercise of functions of Collectors by other officers, *see* the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 236.

[2] As to the present constitution and powers of the Board of Revenue, *see* the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[3] The words "or City," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.



BENGAL REGULATION 3 OF 1828.

[THE BENGAL LAND-REVENUE ASSESSMENT (RESUMED LANDS) REGULATION, 1828.]

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## BENGAL REGULATION 3 OF 1828.

[THE BENGAL LAND-REVENUE ASSESSMENT (RESUMED LANDS)  
REGULATION, 1828.][<sup>1</sup>]

(12th June, 1828.)

A Regulation for \* \* \* [<sup>2</sup>] more effectually securing the realization of the public dues.

1. \* \* \* [<sup>3</sup>] it appears to be expedient \* \* \* [<sup>4</sup>] to Preamble. provide that all successions to the possession of land or rent, free of assessment, whether by sale, gift or inheritance, shall be regularly reported to the Revenue-authorities;

*it has likewise appeared to be expedient and proper to make provision for the immediate settlement of the limits of the Sundarbans, as ascertained by careful local inquiry, conducted by the Commissioner specially appointed to the duty, and the surveyors under his authority; and also to declare the intent and meaning of certain parts of the existing Regulations in regard to which doubts have arisen;*

the following rules have accordingly been enacted, to be in force from the date of their promulgation throughout the Provinces immediately subordinate to the Presidency of Fort William.[<sup>4</sup>]

2 to 8. (Special Commissioners for final determination of cases investigated under the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819 (2 of 1819), ss. 5 to 20, and the Bengal Land-revenue Settlement Regulation, 1825 (9 of 1825), s. 5, and for determination of suits brought to contest the demand of Revenue-officers.) Rep. by the Amending Act, 1903 (1 of 1903).

9. (Oaths to be taken by special Commissioners.) Rep. by the Repealing Act, 1873 (12 of 1873).

[<sup>1</sup>] SHORT TITLE.—This short title was given by the Amending Act, 1903 (1 of 1903), Sch. I—see *post*, p. 622.

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal—see the concluding paragraph of s. 1.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1873-86, Ed. 1928, p. 48), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

The application of the Regulation is barred in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 768; and the Sonthal Parganas by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, *post*, p. 700.

[<sup>2</sup>] Words in the title which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[<sup>3</sup>] Portions of s. 1 which were repealed by *ibid*, are omitted.

[<sup>4</sup>] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

## (Sec. 10.)

Regulation 2, 1819, modified and extended. **10. First.**—The following rules are hereby enacted in modification and extension of the provisions contained in sections 22, 23, 24, Regulation 2, 1819.<sup>[1]</sup>

Decisions of Board of Revenue under section 21 of Regulation, 2, 1819, to be executed notwithstanding suit to contest them. **Second.**—All decisions which have been or may be passed by the <sup>[2]</sup>[Board] of Revenue <sup>[3]</sup> under the rules in section 21, Regulation 2, 1819,<sup>[1]</sup> declaring the liability to assessment of lands \* \* \*<sup>[4]</sup> shall be carried into immediate execution by the Collectors<sup>[5]</sup> or other local Revenue-officers of such district, notwithstanding that the parties against whom such decisions may have been or may be passed shall have sued or shall sue to contest the Board's<sup>[3]</sup> decision in one of the established Courts of Justice \* \* \*<sup>[6]</sup> and such parties shall not be permitted to retain possession of the lands unless they enter into an engagement to pay the assessment which may be fixed upon them; such assessment to be collected under the general rules for the realization of the Government revenue from farmers thereof.

Consequence of declining to pay assessment. And if any person against whom the Board<sup>[3]</sup> may have decided shall decline to pay the assessment fixed on the lands, he shall be forthwith dispossessed, and such arrangements shall be made for the collection of the Government revenue as the Collector,<sup>[5]</sup> under the orders of the Board,<sup>[3]</sup> may see fit to adopt: but in the event of a final decision being passed, exempting the tenure of any such person from assessment, the net collections made on account of Government shall be refunded, with interest thereon at the rate of six *per cent. per annum*.

Trial of suits to contest Board's decision in cases in which jurisdiction of courts is not barred. **Third.**—All suits which may be instituted in the established Courts of Justice under the provisions of sections 22 and 24, Regulation 2, 1819,<sup>[1]</sup> and section 5, Regulation 9, 1825,<sup>[7]</sup> to contest decisions of the <sup>[2]</sup>[Board] of Revenue<sup>[3]</sup> shall, when the jurisdiction of the above Courts is not barred by the operation of this Regulation, be heard and determined in the same manner as regular appeals, and no further pleadings shall be required or received in such cases than the objections

[1] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 161.

[2] The word "Board" was substituted for "Boards" by the Amending Act, 1903 (1 of 1903), Sch. II—*see post*, p. 637.

[3] As to the present constitution and powers of the Board of Revenue, *see* the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[4] The words "whether the same be situated in districts to which the jurisdiction of a special Commissioner has been extended or in any other district," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[5] As to the exercise of functions of Collectors by other officers, *see* the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 236.

[6] The words "or to the Commissioner appointed under this Regulation," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[7] The Bengal Land-revenue Settlement Regulation, 1825. It is printed *ante*,

## (Sec. 11.)

of the appellant to the decision of the Board<sup>[1]</sup> and the reply to those objections on the part of the Revenue-authorities;

the said Courts shall likewise, on the admission of an appeal, invariably call for the original record of the Board's<sup>[1]</sup> proceedings in each case, and shall then require the parties to file their pleadings as above provided; but it shall not be competent to the Courts to take further evidence, oral or documentary, unless it shall appear that such evidence was tendered by the party adducing it to the Collector<sup>[2]</sup> or the Board,<sup>[1]</sup> and was then rejected on insufficient grounds or that such evidence is essential to the ascertainment of some fact material to the issue, which may not have been fully inquired into in the course of the previous investigation.

*Fourth.*—Provided, however, and it is hereby enacted, that nothing contained in the preceding clause shall be construed to bar the admission of a further appeal on the part of the Revenue-authorities to \* \* \*<sup>[3]</sup> the Court of *Sadar Diwani Adalat*, from decisions passed in the first instance in the *Zila* \* \* \*<sup>[4]</sup> Courts \* \* \*<sup>[5]</sup> in cases of the nature described and specially provided for in section 6, Regulation 14, 1825,<sup>[6]</sup> nor the admission by those tribunals of the special appeal on the application of the party opposed to Government under the rules in section 26, Regulation 2, 1819.<sup>[7]</sup>

*Fifth.*—Appeals filed in the established Courts of Civil Judicature to contest decisions of the Board of Revenue<sup>[1]</sup> shall be kept on a file or register distinct from that on which other suits before those Courts are entered \* \* \*<sup>[8]</sup>

Proviso as to admission of appeals from inferior to superior Courts.

Appeals from Board's decisions to be kept distinct.

**11. First**—(Provisions for securing information of transfers of land held free of assessment.)—*Rep. by the Repealing Act, 1874 (16 of 1874).*

*Second.*—Persons succeeding to the possession of any lands held free of assessment or held on a *mukarrari jama*, on the decease of a former occupant, or by gift, purchase or other assignment or transfer of proprietary right, are hereby required immediately to notify the same to

Persons succeeding to possession of lands revenue-free or on *mukarrari jama* to report to Collector.

[1] As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[2] As to the exercise of functions of Collectors by other officers, see the Bengal Land revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 236.

[3] The words "the Provincial Courts or," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[4] The words "or the Provincial," which were repealed by *ibid*, are omitted.

[5] The word "respectively," which was repealed by *ibid*, is omitted.

[6] The Bengal Revenue-free Lands Regulation, 1825. It is printed *ante*, p. 271.

[7] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 161.

[8] The remainder of s. 10 (5), which was repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

## (Sec. 12.)

the Collector<sup>[1]</sup> or other officer exercising the powers of Collector within the district in which the land may be situated, and any omission to notify such succession or transfer for a period of six months or more shall subject such land to immediate attachment by the Revenue-officers.

Nor shall land so attached be restored to the party who may claim to hold it, though the validity of the tenure be subsequently established to the satisfaction of the Revenue authorities, until such party shall have paid to Government a fine equal to one year's rent; and, if the revenue derivable from the land be not awarded to be the right of the individual, the party shall further be required to refund the amount of the collections made by him, with interest thereon at the rate of twelve *per cent. per annum*: provided also that the said rent and collections shall be estimated according to the assessment demandable from the *rai-yats* at the time of attachment.

Investigation of claims to recover possession of attached lands.

*Third.*—Where the lands of any individual may be attached under the above rule, any claim which he may prefer to recover possession thereof, and to hold the same free of assessment or on a *mukarrari jama*, shall be investigated and determined by the Collector<sup>[1]</sup> under the provisions of Regulation 2, 1819,<sup>[2]</sup> as modified by the present Regulation and by those which have been intermediately enacted.

Unregistered tenures liable to resumption, unless declared hereditary by decree of competent authority.

**12.** All tenures which may not have been duly registered in the manner prescribed by the Regulations, or of which the specification contained in the register shall not purport the same to be held under an hereditary title or as a perpetual endowment, shall be and be held to have been liable to resumption, unless the same may have been declared hereditary by a final decree of a competent Court of Judicature, on the demise of the persons who were in possession at the dates respectively of Regulations 19<sup>[3]</sup> and 37,<sup>[4]</sup> 1793, \* \* \*<sup>[5]</sup> and 12, 1805, <sup>[6]</sup> according as the lands may be within the districts to which those Regulations are severally applicable, or in other parts of the country at the date at which the same came into the possession of the British Government.

And Collectors<sup>[1]</sup> and other officers exercising the powers of Collector shall accordingly proceed to assess, and, if necessary, attach all lands liable to resumption as above, in the same manner and with the same

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 236.

[2] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 161.

[3] The Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 43.

[4] The Bengal Revenue-free Lands (Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 60.

[5] The words and figures "Regulations 41 and 42, 1795, Regulations 31 and 36, 1803, Regulation 8", which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[6] The Cuttack Land-revenue Regulation, 1805. It is printed *ante*, p. 88.

## (Sec. 13.)

powers as they are authorized and required to proceed in the case of a lapsed farm, anything in the existing Regulations to the contrary notwithstanding :

Provided further that the nature and extent of the interests vested in the holders of lands and rents exempted from assessment shall, when the title-deeds are forthcoming, and their authenticity recognized, be construed and defined with reference to the whole of the matter contained in such deeds, and not merely by the designation of the tenure. *Jagirs* consequently shall not be held to be life-tenures in cases in which the recital of the grant shall be such as clearly to convey an hereditary interest : nor shall any tenures, howsoever designated, be considered to be hereditary and perpetual if the grants under which they are held shall not convey, in express terms, an hereditary or perpetual interest.

**13. First.**—*The uninhabited tract known by the name of the Sundar-* Sundarbans  
declared  
property of  
the State, and  
Government  
competent  
to make  
grants  
and to take  
measures for  
its clearance.  
*bans has ever been and is hereby declared still to be, the property of the State: the same not having been alienated or assigned to zamindars, or included in any way in the arrangements of the perpetual Settlement, it shall therefore be competent to the [1][Local Government] to make, as heretofore, grants, assignments and leases of any part of the said Sundarbans, and to take such measures for the clearance and cultivation of the tract as [2] [it] may deem proper and expedient.*

*All parties to whom such grants, leases or assignments shall have been made, or to whom they may hereafter be made, shall be entitled to hold or to take possession of any tract of Sundarban jungle so granted or assigned without question or opposition, and all public officers shall aid and assist the same :* Grantees'  
right.

*Provided also that if any zamindar, talukdar or other sadr malguzar or any other person owning and occupying or collecting the rent or revenue of cultivated land in the neighbourhood of the land so granted, leased or assigned shall sue in any Court of Adalat \* \* \* [3] to contest the validity of the title or the right of possession of any such lessee or grantee under such grant, lease or assignment, then if the land aforesaid shall be proved to be, or to have been, or be not denied to be or to have been, when so granted, leased or assigned, within the limit of the unoccupied jungle so named and described, the suit shall be dismissed with costs :* Suit to  
contest  
such right.

[1] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903) Sch. II, *post*, p. 637.

[2] The word "he," in the original text, is to be read as if the word "it" were substituted therefor—see *ibid*.

[3] The words "or before a special Commissioner under this Regulation," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

(Sec. 13.)

Compensa-  
tion to  
zamindar  
claiming  
valuable  
interest.

*Provided, however, that if any zamindar, talukdar or other person aforesaid shall claim to possess a valuable interest in any part of the Sundarbans, by virtue of authority to collect money or other valuable thing from the persons engaged in gathering wax, or cutting wood or obtaining other jungle products of the tract, or by virtue of any other similar privilege or advantage which may have been recognized as part of the assets on which the assessed revenue of his zamindari, talukdari or other tenure was adjusted at the time of farming the perpetual settlement of the district, and the collection of which was not subsequently stopped and due compensation made under the rules relative to the collection of said revenue or other similar arrangement, such zamindar, talukdar or proprietor shall be entitled to receive from Government compensation for any diminution in the value of such interest and advantage consequent on the arrangements adopted for the cultivation of the Sundarban ; the same being duly established after an investigation conducted under the rules of Regulation 2, 1805,[<sup>1</sup>] as modified by this Regulation.*

*Second.—(Demarcation of boundaries of the Sundarban jungle.)  
Rep. by the Sundarbans Act, 1905 (Ben. Act 1 of 1905).*

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[<sup>1</sup>] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 161.

## BENGAL REGULATION 4 OF 1828.

[THE BENGAL LAND-REVENUE SETTLEMENT REGULATION, 1828.][<sup>1</sup>]

(7th August, 1828.)

[<sup>2</sup>] A Regulation to declare and extend the powers to be exercised by Collectors when making or revising settlements under the provisions of Regulation 7, 1822.[<sup>3</sup>]

1. (Preamble.) *Rep. by the Amending Act, 1903 (1 of 1903).*

2. *First, Second, Third.*—(Collectors making or revising settlements empowered to try all questions of property in or possession of lands.) *Rep. by the Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1833 (9 of 1833), s. 4.*

*Fourth.*—To prevent doubts as to the period for which Collectors[<sup>4</sup>] and other officers[<sup>5</sup>] [vested with the powers of a Collector] are to possess the powers vested in them \* \* \* [by Regulation 7, 1822,<sup>3</sup>] in regard to any *mahals* of which the settlement may have been, or may be about to be made or revised, it is hereby declared and enacted that they shall be held and considered to be engaged in making and revising such settlement from the date on which they have issued or may issue orders for adjusting the boundaries, for measuring any of the lands or for making a census of the inhabitants of any village or portion of a

Period during which Collectors are to be considered to be engaged in making and revising settlements.

[<sup>1</sup>] **SHORT TITLE.**—This short title was given by the Amending Act, 1903 (1 of 1903), Sch. I—*see post*, p. 623.

**LOCAL EXTENT.**—S. 2 (4) of this Regulation has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1873-86, Ed. 1928, p. 48), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts

Section 2 (4) has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the following Scheduled Districts, namely:—

the districts of Hazaribagh, Ranchi, Palamau and Manbhum, and Pargana Dhalbhum in the district of Singhbhum, in the Chota Nagpur Division—  
*see Vol. IV, Part III.*

The application of the Regulation is barred in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 768; and the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3 (3), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, *post*, p. 700.

[<sup>2</sup>] This title is obsolete, in consequence of the repeal of clause *First* of s. 2 of the Regulation.

[<sup>3</sup>] The Bengal Land-revenue Settlement Regulation, 1822. It is printed *ante*, p. 202

[<sup>4</sup>] As to the exercise of functions of Collectors by other officers, *see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, ante*, p. 236.

[<sup>5</sup>] The words in square brackets were substituted for the word "aforesaid," by the Amending Act, 1903 (1 of 1903), Sch. II—*see post*, p. 637.

[<sup>6</sup>] The words "by this Regulation and," which were repealed by *ibid.*, are omitted.



(Sec. 2.)

village belonging to such *mahal*, of which intimation shall be given to the Magistrate or Joint Magistrate within whose division the village shall be situated, up to the day on which they may be informed that the settlement, as made and revised by them, has been finally confirmed by Government.

During the aforesaid period \* \* \*<sup>[1]</sup> Magistrates and Joint Magistrates \* \* \*<sup>[2]</sup> shall be guided, in respect to such *mahals*, by the provisions of clause *Second*, section 34, Regulation 7, 1822,<sup>[3]</sup> by which they were required to refer to the Revenue-authorities disputes regarding lands, premises, crops, watercourses and the like.

And all police-officers are required to give immediate and efficient support to Collectors<sup>[4]</sup> and other revenue-officers in the execution of their duties.

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[1] The words "the powers vested in," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[2] The words and figures "by Regulation 15, 1824, shall be suspended in regard to all *mahals* of which the settlement may be so in progress, and the said officers," which were repealed by *ibid*, are omitted.

[3] The Bengal Land-revenue Settlement Regulation, 1822. It is printed, *ante*, p. 202.

[4] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 236.

## BENGAL REGULATION 1 OF 1829.

[THE BENGAL REVENUE COMMISSIONERS REGULATION, 1829.][<sup>1</sup>]

(1st January, 1829.)

### A Regulation for constituting Commissioners of Revenue and Circuit \* \* \*.[<sup>2</sup>]

1. The system in operation for superintending the magistracy and the police, and for controlling and directing the executive Revenue-officers, who in several cases are also Magistrates, has been found to be defective. Preamble.

The Provincial Courts of Appeal and Circuit, as now constituted, partly from the extent of country placed under their authority, and partly from their having to discharge the duties of both civil and criminal tribunals, have, in many cases, failed to afford that prompt administration of justice which it is the duty of Government to secure for the people.

The gaol-deliveries have been, in some instances, delayed beyond the term prescribed by law, [*especially in the division of Bareilly, which comprises thirteen stations at which gaol-deliveries have to be held, beside the joint magistracies of Bila and Sirpura,*] and a great arrear of cases under appeal has accrued in all the Courts, to the manifest injury of many individuals and to the encouragement of litigation and crime.

The Judges of Circuit, when employed singly in the districts under their authority, do not possess sufficient powers, nor have they the opportunity of acquiring sufficient local knowledge, to enable them adequately to control the police or protect the people.

The great extent of country under each of the Boards of Revenue has similarly operated to impede them in the execution of the duties which belong to them as tribunals for the determination of all questions relative to the assessment of lands under settlement and for the judicial

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[<sup>1</sup>] SHORT TITLE.—This short title was given by the Amending Act, 1903 (1 of 1903), Sch. I—*see post*, p. 623.

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal—*see* the concluding paragraph of s. 1, *post*, p. 290.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1873-86, Ed. 1928, p. 48), to be in force throughout the former Province of Bengal except as regards the Scheduled Districts.

The application of the Regulation is barred in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 768; and the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, *post*, p. 700.

[<sup>2</sup>] The rest of the title was repealed by the Amending Act, 1903 (1 of 1903), and is omitted.

(Sec. 2.)

decision of many other important cases, as the general guardians of the fiscal interests of the State, as directors and superintendents over the executive officers, and as the confidential advisers of Government.

For the correction of the above defects, it has appeared to be expedient and necessary to place the magistracy and police, and the Collectors and other executive Revenue-officers, under the superintendence and control of Commissioners of Revenue and Circuit, each vested with the charge of such a moderate tract of country as may enable them to be easy of access to the people, and frequently to visit the different parts of their respective jurisdictions; to confide to the said Commissioners the powers \* \* \*<sup>[1]</sup> that belong to the Boards of Revenue, to be exercised, with the modifications hereinafter provided, \* \* \*<sup>[1]</sup> under the instructions and control of a *Sadar* or Chief Board of Revenue. \* \* \*<sup>[1]</sup>

With the above views and purposes the Governor General in Council has enacted the following rules to be in force from the 1st March, 1829, throughout the Provinces immediately subject to the Presidency of Fort William.<sup>[2]</sup>

**Appointment  
of Commis-  
sioners of  
Revenue and  
Circuit for  
divisions  
specified.**

**2.** A Commissioner of Revenue and Circuit shall be appointed for each of the under-mentioned divisions :

Provided, however, that it shall be competent to the Governor-General in Council, by an order in Council, to transfer any district or districts from one division to another,<sup>[3]</sup> and to increase or reduce the number of Commissioners, if such a measure shall appear to be necessary or expedient; due notice of any such arrangement being given by public proclamation.

	*	*	*	*	*	*	*[1]
[10th	Division to contain the districts under the					{	Saran,
	Magistrates, Collectors, Joint-Magistrates and						Shahabad and
	Sub-Collectors of ... ..						Tirhut.
11th	ditto	ditto	of . . .	{	Patna,		
					Bihar and		
					Ramgarh.]		
					[Bhagalpur,		
12th	ditto	ditto	of . . .	{	Monghyr,]		
					Malda [and		
					Purnea].		

[1] Portions repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[2] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

[3] For a list of divisions and districts as now existing, see the Bihar and Orissa Quarterly Civil List, Part XXXA. The Divisions of the Province of Bihar and Orissa, as existing on the 1st April, 1912, for administration, revenue and general purposes, were continued by notification no. 410, dated the 1st April, 1912, in the *Gazette of India*, Extraordinary, of that date.

(Secs. 3-4.)

13th	Division to contain the districts under the	Magistrates, Collectors, Joint-Magistrates and	Sub-Collectors of	...	...	...	{ Dmajpur, Itanpur, Rajshahi and Bogra.
14th	ditto	ditto	of	.	.	.	{ Murshudabad, Birbhum and Nadia. Dacca.
15th	ditto	ditto	of	.	.	.	{ Jalilpur. Tippera and Mymensingh.
16th	ditto	ditto	of	.	.	.	{ Chittagong and } * * [1] Noakhali }
	*	*	*	*	*	*	* [2]
18th	ditto	ditto	of	.	.	.	{ Backergunge, Jessore, Suburbs of Cal- cutta. 24-Parganas and Barasat.
19th	ditto	ditto	of	.	.	.	{ [Cuttack, Khurda, Balasore,] Midnapore and Nagwan, includ- ing Hijli.
20th	ditto	ditto	of	.	.	.	{ Burdwan, Jungle Mahals and Hooghly.

3. (Commissioners invested with powers of Judges of Circuit and Courts of Circuit collectively; period of holding sessions, etc.) *Rep. by the Repealing Act, 1874 (16 of 1874).*

4. *First.*—The said Commissioners shall, until otherwise specifically provided for by law, possess and exercise within the several districts comprised in their respective divisions the powers and authority now vested in the Boards of Revenue<sup>[3]</sup> and Courts of Wards, subject to the control and direction of a *Sadar* or Head Board, to be ordinarily stationed at the Presidency, unless otherwise directed by the Governor General in Council, and to such restrictions and provisions as the

Commissioners to have powers of Boards of Revenue and Courts of Wards.

[1] The words "To be placed under the officer appointed to control the affairs of Arakan," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[2] Portion repealed by *ibid.*, is omitted.

[3] As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

(Secs. 5-10.)

Governor General in Council or the said *Sadar* Board, with his authority or sanction, may prescribe.

*Sadar* Board  
and Com-  
missioners  
how guided  
as to form  
of their  
revenue  
proceedings.

*Second.*—In regard to the form of their proceedings in the Revenue Department, the Commissioners and the *Sadar* Board shall be guided by such orders as the Governor General in Council may from time to time issue, and it shall be competent to the Governor General in Council to fix the stations at which the Board and the Commissioners, when not employed on the duties of circuit, shall reside, at such places within the territories belonging to this Presidency as may from time to time be deemed expedient.

When tract  
within juris-  
diction of  
Magistrate  
of one  
division is  
under Col-  
lector of  
another  
division.

*Third.*—Provided also that, in cases in which any tract of country that belongs to the jurisdiction of a Magistrate or Joint Magistrate of one division may be under the authority of a Collector or Deputy Collector attached to another division, the Governor General in Council shall determine, by an order in Council, the nature and extent of the powers to be exercised in regard to the revenue affairs of such tract by the Commissioners respectively with whose divisions it may be so jointly connected.

**5.** (*Abolition of powers of certain Provincial Courts of Appeal.*) Rep. by the Repealing Act, 1874 (16 of 1874).

**6.** (*Repeal of inconsistent provisions.*) Rep. by the Amending Act, 1903 (1 of 1903).

**7, 8.** (*Offices of Superintendents of Police abolished; Commissioners to perform duties of Superintendents; tender of pardon to accomplices; Powers of Commissioners of Cuttack and Midnapore.*) Rep. by the Amending Act, 1903 (1 of 1903).

**9.** *First.*—(*Powers of Commissioners of Arakan and Assam.*) Rep. by the Amending Act, 1903 (1 of 1903).

*Second.*—(*Conferment of powers on the Commissioner for the districts of the Northern Doab, etc.*) Rep. (except in certain Scheduled areas) by the North-Western Provinces Land-revenue Act, 1873 (19 of 1873.) (*Conferment of powers on the Resident at Delhi.*) Rep. in part by Ben. Reg. 6 of 1831, s. 8; residue rep. by Ben. Reg. 10 of 1831, s. 4.

**10.** (*Abolition of office of mufassal special Commissioner; modification of practice under Regs. 1 of 1821 and 1 of 1823.*) Rep. by the Amending Act, 1903 (1 of 1903).

## BENGAL REGULATION 17 OF 1829.

[THE BENGAL SATI REGULATION, 1829.][<sup>1</sup>]

(4th December, 1829.)

### A Regulation for declaring the practice of *sati* or of burning or burying alive the widows of Hindus illegal and punishable by the Criminal Courts.

1. The practice of *sati* or of burning or burying alive the widows of Hindus is revolting to the feelings of human nature; it is nowhere enjoined by the religion of the Hindus as an imperative duty; on the contrary, a life of purity and retirement on the part of the widow is more especially and preferably inculcated, and by a vast majority of that people throughout India the practice is not kept up nor observed: in some extensive districts it does not exist; in those in which it has been most frequent it is notorious that in many instances acts of atrocity have been perpetrated which have been shocking to the Hindus themselves and in their eyes unlawful and wicked. Preamble.

The measures hitherto adopted to discourage and prevent such acts have failed of success, and the Governor General in Council is deeply impressed with the conviction that the abuses in question cannot be effectually put an end to without abolishing the practice altogether.

Actuated by these considerations, the Governor General in Council, without intending to depart from one of the first and most important principles of the system of British Government in India, that all classes of the people be secure in the observance of their religious usages, so long as that system can be adhered to without violation of the paramount dictates of justice and humanity, has deemed it right to

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[<sup>1</sup>] **SHORT TITLE.**—This short title was given by the Amending Act, 1897 (5 of 1897), Sch. III—*see post*, p. 547.

**LOCAL EXTENT.**—This Regulation was passed for the whole of the former Province of Bengal—*see* the concluding paragraph of s. 1.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1873-86, Ed. 1928, p. 48), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the districts of Hazaribagh, Ranchi, Palaman and Manbhum, and Pargana Dhalbhum, the Kolhan and the Porahat Estates, in the district of Singhbhum in the Chota Nagpur Division—*see* Vol. IV, Part III.

The Regulation is in force in the following de-regulationised tracts, namely:—

the Angul District—*see* Vol. IV, Part IV; and

the Sonthal Parganas—*see ibid*, Part IV.

**FURTHER ENACTMENTS AS TO HINDU WIDOWS.**—As to re-marriage. *see* the Hindu Widows Re-marriage Act, 1856 (15 of 1856), in General Acts, 1834-72, Ed. 1928, p. 86.

As to non-forfeiture of rights or property by loss of caste, *see* the Caste Disabilities Removal Act, 1850 (21 of 1850), *ibid*, p. 48.

## (Secs. 2-3.)

establish the following rules, which are hereby enacted to be in force from the time of their promulgation throughout the territories immediately subject to the Presidency of Fort William.<sup>[1]</sup>

*Sati* declared illegal and punishable.

2. The practice of *sati* or burning or burying alive the widows of Hindus is hereby declared illegal and punishable by the Criminal Courts.

*Zamindars, etc., responsible for immediate communication to police of intended sacrifice.*

3. *First*.—All *zamindars*, *talukdars* or other proprietors of land, whether *malguzari* or *lakhiraj*, all *sadar* farmers and under-renters of land of every description, all dependent *talukdars*, all *naibs* and other local agents, all Native officers employed in the collection of the revenue and rents of lands on the part of Government or the Court of Wards<sup>[2]</sup> and all *mandals* or other headmen of villages, are hereby declared especially accountable for the immediate communication to the officers of the nearest police-station of any intended sacrifice of the nature described in the foregoing section; and any *zamindar* or other description of persons above noticed, to whom such responsibility is declared to attach, who may be convicted of wilfully neglecting or delaying to furnish the information above required, shall be liable to be fined by the Magistrate or Joint Magistrate in any sum not exceeding two hundred rupees, and in default of payment to be confined for any period of imprisonment not exceeding six months.

Penalty in case of neglect.

Police how to act on receiving intelligence of intended sacrifice.

*Second*.—Immediately on receiving intelligence that the sacrifice declared illegal by this Regulation is likely to occur, the police *daroga* shall either repair in person to the spot, or depute his *muharrir* or *jumadar*, accompanied by one or more *barkundazes* of the Hindu religion, and it shall be the duty of the police-officers to announce to the persons assembled for the performance of the ceremony that it is illegal, and to endeavour to prevail on them to disperse, explaining to them that, in the event of their persisting in it, they will involve themselves in a crime and become subject to punishment by the Criminal Courts.

Should the parties assembled proceed in defiance of these remonstrances to carry the ceremony into effect, it shall be the duty of the police-officers to use all lawful means in their power to prevent the sacrifice from taking place, and to apprehend the principal persons aiding and abetting in the performance of it; and in the event of the police-officers being unable to apprehend them they shall endeavour to ascertain their names and places of abode, and shall immediately communicate the whole of the particulars to the Magistrate or Joint Magistrate for his orders.

[1] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

[2] The law relating to the Court of Wards in Bihar and Orissa is the Court of Wards Act, 1879 (Ben. Act 9 of 1879), printed in Vol. II of this Code.

(Secs 4-5 )

*Third* —Should intelligence of a sacrifice declared illegal by this Regulation not reach the police-officers until after it shall have actually taken place or should the sacrifice have been carried into effect before their arrival at the spot they will nevertheless institute a full inquiry into the circumstances of the case, in like manner as on all other occasions of unnatural death and report them for the information and orders of the Magistrate or Joint Magistrate to whom they may be subordinate

How to  
act when  
intelligence  
of sacrifice  
does not  
reach them  
until after  
it has taken  
place

**4, 5.** (*Trial of persons concerned in the sacrifice sentence of death by Court of Nizamat Adalat*) Rep by Act 17 of 1862.



## BENGAL REGULATION 5 OF 1830.

[THE BENGAL INDIGO CONTRACTS REGULATION, 1830.][<sup>1</sup>]

(9th June, 1830.)

### A Regulation \* \* \*<sup>[2]</sup> relating to the cultivation and delivery of indigo-plant.

Preamble.

1. \* \* \* \* \*

whereas it is desirable in certain cases to afford persons who may be unwilling to renew their contracts for the cultivation of indigo the means of obtaining, by summary process, a release from their engagements ;

the following rules have been enacted, to be in force from the date of their promulgation throughout the territories subject to the Presidency of Fort William.[<sup>3</sup>]

2. (*Criminal prosecution of persons inducing raiyats to break contract.*) Rep. by the Repealing Act, 1868 (8 of 1868).

3. (*Cultivators failing to fulfil engagements liable to imprisonment.*) Rep. by Act 16 of 1835.

4. (*Punishment of persons damaging indigo-plant.*) Rep. by Act 3 of 1857.

Procedure by persons wishing to be released from their engagements.

5. *First.*—Any person who, having received advances under a written agreement for the cultivation of indigo, shall be desirous, on the expiration of the period of his contract, to settle his account shall be at liberty, in the event of the proprietor of the factory, or the person acting in his behalf, refusing to settle the same, to present a petition to the Zila Court ;

[<sup>1</sup>] SHORT TITLE.—This short title was given by the Amending Act, 1903 (1 of 1903), Sch. I—see *post*, p. 623.

LOCAL EXTENT.—This Regulation was enacted for the whole of the former Province of Bengal—see the concluding paragraph of s. 1.

Sections 1 and 5 of the Regulation have been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1873-86, Ed. 1928, p. 48), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

The application of the Regulation in the de-regulationised tracts in Bihar and Orissa is barred as follows, namely :—

in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 768; and

in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3 (2), as amended by the Sonthal Parganas Justice and Law Regulation, 1899 (3 of 1899), s. 3, *post*, p. 700.

[<sup>2</sup>] Words in the title and preamble which were repealed by the Amending Act, 1891 (12 of 1891), are omitted.

[<sup>3</sup>] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

and the Judge after a summary inquiry in the presence of the parties or their authorized agents, into the merits of the case, shall, on proof of the expiration of the contract and of there being no balance due from the petitioner or if the petitioner shall deposit in Court the amount of any balance that may be adjudged to be due from him, grant the said petitioner a release from his engagement, and shall pay over the amount of any balance that may be deposited by him to the proprietor, or to the person acting in his behalf

*Second* —If the proprietor or person aforesaid shall refuse to receive the balance awarded to him by the summary process above provided, the Judge shall return the amount to the petitioner, leaving the defendant to seek his remedy by a regular suit

Procedure if  
proprietor  
objects to  
receive  
balance

## BENGAL REGULATION 9 OF 1833.

[THE BENGAL LAND-REVENUE (SETTLEMENT AND DEPUTY COLLECTORS) REGULATION, 1833.][<sup>1</sup>]

(9th September, 1833.)

**A Regulation to modify certain portions of Regulation 7 of 1822**<sup>[2]</sup>  
\* \* \*<sup>[3]</sup> to provide for the more speedy and satisfactory decision of judicial questions cognizable by officers of revenue employed in settlements under the above <sup>[4]</sup>[Regulation] ; for enforcing the production of the village-accounts ; for the more extensive employment of native agency in the Revenue Department ; and to declare the intent of section 5, Regulation 7 of 1822,<sup>[2]</sup> touching claims to *malikana*.

### Preamble.

1. Experience having demonstrated the expediency of modifying certain enactments of Regulation 7 of 1822<sup>[2]</sup> \* \* \*<sup>[3]</sup>, also of providing a more speedy and satisfactory mode of deciding such judicial questions as may be cognizable by officers of the Revenue Department under <sup>[5]</sup>[that Regulation] and of declaring the intent of the rules regarding *malikana* promulgated by section 5, Regulation 7 of 1822<sup>[2]</sup> ; it having been found expedient likewise that measures should be adopted for enforcing the production of the village-accounts, and for rendering them accessible to all persons concerned having occasion to examine them ; also that natives of respectability should be employed in more important trusts connected with the revenue-administration ; the

[<sup>1</sup>] SHORT TITLE.—This short title was given by the Amending Act, 1903 (1 of 1903), Sch. I—*see post*, p. 623.

LOCAL EXTENT.—The Regulation has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the following Scheduled Districts, namely :—

the districts of Hazaribagh, Ranchi, Palamau and Manbhum and Pargana Dhalbhum in the district of Singhbhum in the Chota Nagpur Division—*see* Vol. IV, Part III.

Its application in the de-regulationised tracts is barred as follows, namely :—

in the district of Angul, by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 768 ; and

in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation, 1899 (3 of 1899), s. 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, *post*, p. 700

[<sup>2</sup>] The Bengal Land-revenue Settlement Regulation, 1822. It is printed *ante*, p. 202.

[<sup>3</sup>] The words and figures “ and Regulation 4 of 1828,” in the title and s. 1, which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[<sup>4</sup>] The word “ Regulation ” in the title, was substituted for the word “ Regulations ” by *ibid*.

[<sup>5</sup>] The words “ that Regulation,” in s. 1, were substituted for the words “ those Regulations ” by *ibid*.

(Secs. 2-8.)

following provisions have been enacted, to be in force from the date of their promulgation.

2. (*Repeal of provisions of Regulation 7, 1822, as to mode of determining jama to be demanded from mahul.*) Rep. by the Amending Act, 1903 (1 of 1903).

3. (*Repeal of provisions of Regulation 7 of 1822 as to investigation of claims simultaneously with determination of Government demand.*) Rep. by the Amending Act, 1903 (1 of 1903).

The Governor General in Council will hereafter determine the order in which the above matters shall be respectively disposed of.

4. [*Repeal of parts of the Bengal Land-Revenue Settlement Regulation, 1828 (1 of 1828).*] Rep. by the Repealing Act, 1874 (16 of 1874).

5. In addition to section 33, Regulation 7 of 1822<sup>[1]</sup> it is hereby enacted that whenever any judicial question may be depending before a Collector<sup>[2]</sup> or other officer employed in making settlements under the provisions of Regulation 7 of 1822,<sup>[1]</sup> in which the interests of justice may, in the opinion of such officer, require that the case be decided by arbitration, it shall be lawful for him to fix, under the instructions with which he may be furnished by the superior Revenue-authorities, a period within which the parties must produce the award.

When Collector making settlements considers arbitration necessary, he may fix period for production of award

6. In that case, if the parties shall refuse or neglect to produce such award within the term limited, it shall be lawful for the Collector<sup>[2]</sup> or other officer to summon a *panchayat*, to be composed of three or five impartial and otherwise competent persons of good repute for the trial of the matter at issue.

When Collector may summon *panchayat*.

7. After duly considering the statements and evidence offered by the parties, or, in case of the default or recusance of either, the statements and evidence produced by the party in attendance, the *panchayat* shall declare their opinions, and judgment shall be recorded according to the sentence of the majority.

Procedure of *panchayat*.

The superior Revenue-authorities will from time to time issue such rules of practice for the guidance of the officers employed on this duty, or the *panchayats*, as they may consider necessary.

8. No appeal shall be allowed from such decisions, which shall be immediately executed and maintained, unless the Commissioner, subject to the control of the \* \*<sup>[3]</sup> Board of Revenue<sup>[4]</sup> should think proper,

Bar of appeal :— submission to second *panchayat*.

[<sup>1</sup>] The Bengal Land-revenue Settlement Regulation, 1822. It is printed *ante*, p. 202.

[<sup>2</sup>] As to the exercise of functions of Collectors by other officers, *see* the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 236.

[<sup>3</sup>] The word "Sadar," in s. 8, which was repealed by the Amending Act, 1903 (1 of 1903), is omitted.

[<sup>4</sup>] As to the present constitution and powers of the Board of Revenue, *see* the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

(Secs. 9-16.)

for any special reason, to direct that the case shall be submitted to another *panchayat* for decision.

Non-suit of  
suit to set  
aside deci-  
sion, also  
suits  
against  
arbitrators.

**9.** Any suit brought before any Court of Justice to set aside a decision made in conformity with the above rules shall be non-suited with costs.

**10.** In like manner any suit brought before any Court of Justice against the arbitrators, collectively, or individually, appointed in conformity with the rules prescribed, to recover from them the value of the property lost by the decision founded on their award, shall be non-suited with costs.

Intention of  
rules as to  
*malikana* in  
section 5,  
Regulation  
7, 1822.

**11.** It is hereby declared that the rules concerning *malikana* contained in section 5, Regulation 7 of 1822,<sup>[1]</sup> were intended to have a prospective effect only, and to be applicable solely to settlements made under that Regulation, and to recusance tendered at the completion of such settlements.

Village-  
accounts.

**12.** It is further enacted that the village-accounts which are required to be kept in such manner and form as has heretofore been the custom, or in such other mode as may hereafter be prescribed by the <sup>[2]</sup>[Board] of Revenue<sup>[3]</sup> shall be prepared in duplicate sets—one for deposit in the office of *patwari*, and one for deposit in the office of Collector of the district in which the respective estates or tenures may be situated, and, wherever the office of a *kanungo* may be established, a third copy shall be prepared and deposited in that office.

Accounts to  
be furnished  
according to  
directions of  
Board.

**13.** The several accounts required for deposit in the *pargana* and *Zila* revenue-offices, as above stated, instead of being delivered at the expiration of every six months, as prescribed by the rules at present in force, shall be furnished in such mode and at such periods as the <sup>[2]</sup>[Board] may direct.

They shall be open to the inspection of every person concerned desirous of examining them.

**14, 15.** (*Penalties to landholders for not conforming to rules regarding village accounts.*) *Rep. by the Bengal Rent Act, 1859 (10 of 1859).*

Appointment  
of Deputy  
Collector.

**16.** It shall be competent to the <sup>[1]</sup>[Local Government] to appoint to any revenue-jurisdiction a Deputy Collector, with the powers hereinafter specified.

<sup>[1]</sup> The Bengal Land-revenue Settlement Regulation, 1822. It is printed *ante*, p. 202.

<sup>[2]</sup> The word "Board," in ss. 12 and 13, was substituted for the word "Boards" by the Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 637.

<sup>[3]</sup> As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

<sup>[4]</sup> The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 637.

(Secs. 17-25.)

**17, 18.** (*Eligibility, mode of appointment and monthly allowance.*) Rep. by the Repealing and Amending Act, 1914 (10 of 1914).

**19.** (*Solemn declaration to be made by Deputy Collectors.*) Rep. by the Indian Oaths Act, 1873 (10 of 1873).

**20.** The Deputy Collectors appointed<sup>[1]</sup> under this Regulation are to be in all respects subordinate to the Collector<sup>[2]</sup> under whom they may be placed, and are required to perform all duties assigned to them by that functionary. Subordination of Deputy Collectors.

**21.** It will be at the discretion of the latter officer to employ them in settlement-duties under the provisions of Regulation 7, 1822,<sup>[3]</sup> in the superintendence of the Government *khas mahals*, and generally in the transactions of any other part of the duties of a Collector.<sup>[2]</sup> Duties in which Collectors may employ them.

**22.** All proceedings held by a Deputy Collector appointed under this Regulation shall be recorded in his own name and on his own responsibility, subject to the revision and control of the Collector<sup>[2]</sup> and appealable to the superior authorities in the usual course. Their proceedings how recorded and how appealable.

**23.** Provided always that the Collector <sup>[2]</sup> is competent to resume the duties which he may have committed to the Deputy, assigning his reasons for so doing for the information of the Commissioner. Collector may resume duties committed to Deputy.

**24.** Provided also that the Revenue Commissioners, whenever they think proper, may interfere with any arrangements made by the Collector<sup>[2]</sup> for the employment of the Deputies, or the distribution of business to be assigned to those functionaries, subject to the general control vested in the \* \* \*<sup>[4]</sup> Board of Revenue<sup>[5]</sup> or the Government, as the case may be. Interference by Commissioners with arrangements of Collectors for employment of Deputies

**25.** (*Rules regarding dismissal of Deputy Collectors.*) Rep. by the Repealing and Amending Act, 1914 (10 of 1914).

[1] Cf. s. 16, *ante*, which gives the power of appointment to the Local Government.

[2] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 236.

[3] The Bengal Land-revenue Settlement Regulation, 1822. It is printed *ante*, p. 202.

[4] The word "Sadar," in ss. 24 and 25, which was repealed by the Amending Act, 1903 (1 of 1903), is omitted.

[5] As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

PART II.—LOCAL ACTS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL  
IN FORCE IN THE PROVINCE OF BIHAR AND ORISSA.

ACT 10 OF 1836.

[THE BENGAL INDIGO CONTRACTS ACT, 1836.][<sup>1</sup>]

(11th April, 1836.)

1. (*Repeal of cl. 3 of s. 5 of Ben. Reg. 6 of 1823.*) *Rep. by the Repealing Act, 1870 (11 of 1870).*

Security to  
be given by  
person desir-  
ing to  
remove  
indigo-plant  
ordered to  
be delivered  
to him.

2. [<sup>2</sup>]Whenever the right to indigo-plant may be contested and an order shall be passed under the provisions of clause *Ninth*, section 3, Regulation 6, 1823, [<sup>3</sup>] of the Bengal Code, for the delivery of indigo-plant to one of the parties claiming the same, such party shall not be allowed to cut or remove the indigo-plant until he shall have given sufficient security to the satisfaction of the Court trying the case to make good any claim that shall be ultimately established to such indigo-plant, whether arising from a prior right to the produce of the land, or from an arrear of rent due on account of the specific parcel of land from which the plant may have been produced.

Right of  
suit of  
person  
making  
advances  
for cultiva-  
tion or  
delivery of  
indigo-

3. [<sup>2</sup>]When a lawful contract shall have been made between a *raiyat* and another party, by which contract the *raiyat* shall have bound himself to cultivate indigo-plant for the other party, or to deliver indigo-plant to the other party, and when the other party shall have advanced money to the *raiyat* for the purpose of enabling the *raiyat* to fulfil such contract, then if any other person, knowing that such contract exists

[1] SHORT TITLE.—This short title was given by the Amending Act, 1903 (1 of 1903), Sch. I—*see post*, p. 624.

LOCAL EXTENT.—This Act has been declared, by the Laws Local Extent Act, 1874 (13 of 1874), s. 6 (printed in General Acts, 1873-86, Ed. 1928, p. 48), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

The Act has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the districts of Hazaribagh, Ranchi, Palamau and Manbhum, and Pargana Dhalbhum and the Kolhan in the district of Singhbhum, in the Chota Nagpur Division—*see* Vol. IV, Part III.

The application of the Act in the de-regulationised tracts in Bihar and Orissa is barred as follows, namely:—

in the district of Angul by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 768; and

in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, *post*, p. 700.

[2] Formal words in ss. 2 and 3, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[3] The Bengal Indigo Contracts Regulation, 1823, s. 3 (9), is printed *ante*, p. 244

(Secs. 4-5.)

and that such advance has been made, shall prevail upon the *raiyat* to plant when break such contract, the party who made the advance shall be entitled to breach proceed by civil action against the person who shall have so prevailed of contract on the *raiyat*, as well as against the *raiyat*, and to recover from him or by third is induced them, jointly or severally, damages to the extent of the injury sustained, person. together with costs of suit :

Provided always that nothing in this section contained shall be Bar of suit construed to give a right of action against any person in consequence for act done of any act which that person may have done for the purpose of procuring to recover payment of a debt or performance of a lawful contract. debt or secure performance of lawful contract.

4. [1]The Court trying any suit instituted under the provisions of Power to Regulation 6, 1823, [2] of the Bengal Code, or under the provisions of examine this Act shall be authorised to examine both the plaintiff and the both Plaintiff and defendant whenever the Court shall deem such examination necessary defendant to the ends of justice; and, if the award be in favour of the defendant, in suit, and to assign to the defendant a sum which may be a compensation to compensa- him for the expense and loss of time occasioned by the proceeding. tion to successful

5. (*Power to refer certain suits to a Principal Sadar Amin or Sadar defendant. Amin.*) Rep. by the Repealing Act, 1868 (8 of 1868).

[1] Formal words in s. 4, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[2] The Bengal Indigo Contracts Regulation, 1823. It is printed *ante*, p. 240.



ACT 21 OF 1836.

[THE BENGAL DISTRICTS ACT, 1836.][<sup>1</sup>]

(11th September, 1836.)

Power to  
create new  
zilas.

[<sup>2</sup>] It shall be lawful for [<sup>3</sup>] [the Local Government, by notification in the local official Gazette,] to create new *zilas* in any part of the Presidency of Fort William in Bengal [<sup>4</sup>] \* [<sup>5</sup>]

[1] SHORT TITLE.—This short title was given by the Amending Act, 1903 (1 of 1903), Sch. I—*see post*, p. 824.

LOCAL EXTENT.—This Act was passed for the whole of the former Province of Bengal. It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1873-86, Ed. 1928, p. 48), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the districts of Hazaribagh, Ranchi, Palamau and Manbhum and Pargana Dhalbhum and the Kolhan in the district of Singhbhum, in the Chota Nagpur Division—*see* Vol. IV, Part III.

It is also in force in the Sonthal Parganas—*see* Vol. IV, Part IV, but its application is barred in the district of Angul by the Angul Laws Regulation, 1913 (3 of 1913), s. 3(2), *post*, p. 768.

DEFINITIONS.—For references to a number of definitions of the word “ district,” *see* the Index to the Indian Statutes, Ed. 1911, p. 1069.

[2] Formal words repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[3] The words “ the Governor General in Council, by an Order in Council,” in the original text, are to be read as if the words “ the Local Government, by notification in the local official Gazette ” were substituted therefor—*see* the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 637 and the Devolution Act, 1920 (38 of 1920), *post*, p. 673.

[4] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

[5] The words “ and to alter the limits of existing *zilas*,” which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

OTHER ENACTMENTS.—Power to alter the limits of districts is given by the Bengal Districts Act, 1864 (Ben. Act 4 of 1864), in Vol. II of this Code. Power to alter the limits of Collectorships is also given by the Bengal Land-revenue (Assistant Collectors) Regulation, 1821 (4 of 1821), s. 8 (1), *ante*, p. 197. Power to transfer districts from one Division to another is given by the Bengal Revenue Commissioners Regulation, 1829 (1 of 1829), s. 2, *ante*, p. 290.

For a list of districts as now existing, *see* the Bihar and Orissa Quarterly Civil List, Part XXXA.

ORDER.—For an order made under this Act, *see* the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

ACT 12 OF 1841.

[THE BENGAL LAND-REVENUE SALES ACT, 1841.][<sup>1</sup>]

(19th July, 1841.)

**An Act for amending the Bengal Code in regard to sales of land for arrears of revenue.**

**1.** (*Preamble and repeals*) *Rep by the Repealing Act 1870 (11 of 1870).*

**2.** [<sup>2</sup>] There shall be no demand of interest or penalty upon any interest  
arrear of land-revenue \* \* \*. [<sup>3</sup>]  
Interest and penalty  
abolished

**3 to 35.** (*Sale of land for arrears of revenue, local extent, commencement*) *Rep by Act 1 of 1845.*

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[1] **SHORT TITLE**—This short title was given by the Amending Act, 1903 (1 of 1903), Sch I—*see post*, p 624

**LOCAL EXTENT**—S 2 of this Act has been declared, by the Laws Local Patent Act, 1874 (15 of 1874), s 6 (printed in General Acts, 1873-86, Ed 1928, p 48) to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts

The section has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s 3, to be in force in the districts of Hazaribagh Ranchi, Palamau and Manbhum, and Patna Dhalbhum in the district of Singhbhum, in the Chota Nagpur Division—*see* Vol IV, Part III It is in force in the Southal Patnarus, *see* Vol IV, Part IV.

The application of the section is barred in the district of Angul by the Angul Laws Regulation, 1913 (3 of 1913), s 3 (2), *post*, p. 768

[2] Formal words which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted

[3] The words and figures “which shall fall due after the date specified in s 35 of this Act,” which were repealed by *ibid* are omitted

ACT 9 OF 1847.

[THE BENGAL ALLUVION AND DILUVION ACT, 1847.][<sup>1</sup>]

(8th May, 1847.)

**An Act regarding the assessment of lands gained from the sea or from rivers by alluvion or dereliction within the Province[s] of [Bengal,] Bihar and Orissa.**

Repeal of enactments.

1. It is hereby enacted that such parts of the Regulations of the Bengal Code as establish tribunals and prescribe rules of procedure for investigations regarding the liability to assessment of lands gained from the sea or from rivers by alluvion or dereliction, or regarding the right of Government to the ownership thereof, shall, from the date of the passing of this Act, cease to have effect within the Province[s] of [Bengal,] Bihar and Orissa \* \* \* \* [<sup>2</sup>]; and that no measures shall hereafter be taken for the assessment of such lands, or for the assertion of the right of Government to the ownership thereof except under the provisions of this Act.

" Province of Orissa " defined.

2. [<sup>3</sup>] [The expression " Province of Orissa," in this Act, shall be taken to mean only so much of the Province of Orissa as is subject to the Government of Bengal.]

Power to direct new surveys of riparian lands.

3. [<sup>3</sup>] Within the said Provinces it shall be lawful for the Government of Bengal, in all districts or parts of districts of which a revenue-survey may have been or may hereafter be completed and approved by

[1] SHORT TITLE.—This short title was given by the Amending Act, 1903 (1 of 1903), Sch. I—*see post*, p. 624.

LOCAL EXTENT.—This Act was passed for the whole of the former Province of Bengal—*see the title*.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1873-86, Ed. 1928, p. 48), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the districts of Hazaribagh, Ranchi, Palamau and Manbhum, and Pargana Dhalbhum and the Kolhan, in the district of Singhbhum in the Chota Nagpur Division, *see Vol. IV, part III*. It is in force in the Sonthal Parganas—*see Vol. IV, Part IV*.

The application of the Act is barred in the district of Angul by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 768.

INTERVAL BETWEEN SURVEYS.—In any district in which a survey has been completed and approved by the Government, a new survey of lands on the banks of rivers or on the seashore may not be ordered to be made for the purposes described in Act 9 of 1847 until ten years have expired from the completion and approval of the previous survey—*see the Bengal Survey Act, 1875 (Ben. Act 5 of 1875), s. 3, in Vol. II of this Code*.

[2] The words " and that all such investigations pending before the Collectors and Deputy Collectors in the said Provinces at the said date shall forthwith be discontinued ", in s. 1, which were repealed by the Amending Act, 1891 (12 of 1891), are omitted.

[3] Formal words in ss. 2 and 3, which were repealed by the Repealing Act, 1874. 16 of 1874), are omitted.

[4] This refers to the former Province of Bengal.

(Secs. 4-7.)

Government, to direct from time to time, whenever ten years from the approval of any such survey shall have expired, a new survey of lands on the banks of rivers and on the shores of the sea, in order to ascertain the changes that may have taken place since the date of the last previous survey, and to cause new maps to be made accordingly.

4. \* \* \* [1] The approval of the revenue survey of districts or parts of districts which may be hereafter surveyed shall be deemed to have taken place on such day as may be specified as the day of such approval in the Calcutta \* \* \* [2] Gazette. [3]

Date of approval of surveys.

5. [4] Whenever on inspection of any such new map it shall appear to the local Revenue-authorities that land has been washed away from or lost to any estate paying revenue directly to Government, they shall without loss of time make a deduction from the *sadar jama* of the said estate equal to so much of the whole *sadar jama* of the estate as bears to the whole the same proportion as the *mufassal jama* of the land lost bears to the *mufassal jama* of the whole estate; but, if the *mufassal jama* of the whole estate or of the land lost cannot be ascertained to the satisfaction of the local Revenue-authorities, then the said local Revenue authorities shall make a deduction from the *sadar jama* of the estate equal to so much of the whole *sadar jama* of the estate as bears to the whole the same proportion as the land lost bears to the whole estate. And this deduction, with the reasons thereof, shall be forthwith reported by the local Revenue-authorities for the information and orders of the \* \* \* [5] Board of Revenue [6] whose orders thereupon shall be final.

Deduction from *jama* of estates from which lands have been washed away.

6. [4] Whenever on inspection of any such new map it shall appear to the local Revenue-authorities that land has been added to any estate paying revenue directly to Government, they shall without delay assess the same with a revenue payable to Government according to the rules in force for assessing alluvial increments, and shall report their proceedings forthwith to the \* \* \* [5] Board of Revenue, [6] whose orders thereupon shall be final.

Assessment of increments to revenue-paying estates.

7. (*Local Revenue-authorities to take possession of a new island, and to assess and settle the land.*) Rep. by the Bengal Alluvion Act, 1868 (*Ben. Act 4 of 1868*).

[1] Matter repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

[2] The word "Government," in s. 4, which was repealed by the Amending Act, 1903 (1 of 1903), is omitted.

[3] For an order made under s. 4 see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

[4] Formal words in ss. 5 and 6, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[5] The word "*Sadar*" in ss. 5 and 6, which was repealed by the Amending Act, 1903 (1 of 1903), is omitted.

[6] As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

(Secs. 8-9.)

**8.** (*Exception of certain suits from operation of Act.*) Rep. by the Repealing Act, 1870 (14 of 1870).

Indemnity  
clause.

**9.** \* \*<sup>[1]</sup>no suit or action in any Court of Justice shall lie against the Government or any of its officers on account of anything done in good faith in the exercise of the powers conferred by this Act.

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[1] Formal words in s. 9 which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted. The words "except as regards the proprietary right to islands," in s. 9, which were repealed by the Amending Act, 1903 (1 of 1903), are also omitted.

[THE BENGAL LANDHOLDERS' ATTENDANCE ACT, 1848.][<sup>1</sup>]

(23rd September, 1848.)

**An Act for better enforcing the attendance of proprietors and farmers of land before Collectors of land-revenue in the Lower Provinces of the Bengal Presidency.**[<sup>2</sup>]

Whereas, by sundry Regulations of the Bengal Code, provision is made for the imposition of a daily fine by the Board of Revenue or other authority exercising the powers of that Board on any proprietor or farmer of land, subject to the provisions contained in the said several Regulations, who, when duly summoned by the Collector or other officer exercising the powers of Collector, shall omit or refuse to attend, or to cause his officer or agent to attend, or to furnish the accounts or documents required, and shall not show sufficient cause for such omission; and it is further provided that the fine, when confirmed by Government, is to be levied by the same process as is prescribed for the recovery of arrears of revenue;

And whereas in many cases, by the delay thus occasioned, the whole burden of the penalty is greatly increased beyond what would be necessary if summary power were given to the officer by whom the requisition

[1] **SHORT TITLE.**—This short title was given by the Amending Act, 1903 (1 of 1903), Sch. I—*see post*, p. 624.

**LOCAL EXTENT.**—This Act was passed for the whole of the former Province of Bengal—*see the title*.

It has been declared by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1873-86, Ed. 1928, p. 48), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the districts of Hazaribagh, Ranchi, Palamau and Manbhum, and Pargana Dhalbhum and the Kolhan in the district of Singhbhum in the Chota Nagpur Division, *see* Vol. IV, Part III.

The Act is in force in the Sonthal Parganas—*see* Vol. IV, Part IV, but its application is barred in the district of Angul by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 768.

**OTHER ENACTMENTS.**—As to the attendance of landholders or their agents, *see also*—the Bengal Land-revenue Regulation, 1793 (2 of 1793), s. 33, *ante*, p. 24.

the Bengal Land-revenue Assessment of Regulation, 1801 (1 of 1801), s. 10, *ante*, p. 84;

the Bengal Patwaris Regulation, 1817 (12 of 1817), ss. 29, 31, 32, *ante*, pp. 137, 138 and 139;

the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819 (2 of 1819), s. 13 (3), *ante*, p. 168;

the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 19, *ante*, p. 224; and

the Bengal Land-Revenue Settlement Regulation, 1825 (9 of 1825), s. 5(2), *ante*, p. 256.

[2] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

(Secs. 1-7.)

is made to impose and levy reasonable fines, subject to review by the Commissioner of Revenue and other superior authority ;

It is enacted as follows :—

Penalty on  
landholders,  
not attend-  
ing when  
summoned  
by Collector.

**1.** If any proprietor or farmer of land shall omit or refuse to attend, or to cause his officer or agent to attend, when duly summoned by the Collector, in any case specified in any of the said Regulations, by the time prescribed in the notice issued by the Collector, or shall omit or refuse to furnish the accounts or documents required, and shall not show sufficient cause for such omission, the Collector may impose of his own authority such daily fine, to be payable daily until compliance with the requisition, as he may think adequate to the situation and circumstances in life of the defaulter, not exceeding in any case the daily fine of fifty rupees : and the amount of such fine, accruing due from time to time, may be levied without further confirmation by the same process<sup>[1]</sup> as is prescribed for the recovery of arrears of revenue.

Levy of  
fine.

Report of  
imposition  
and levy of  
fine.

**2.** The Collector shall forthwith report the imposition of every such fine, and the amount thereof, and also from time to time the amount levied, to the Commissioner of Revenue, who shall report the same for the information of the Local Government.

Appeals  
from  
Collector's  
orders.

**3.** Every order passed by a Collector under this Act shall be appealable in the usual manner to the Commissioner of Revenue and other superior authority ; but no such appeal shall avail to prevent the levy of any fine so imposed pending the appeal.

Special  
report of  
levy  
exceeding  
five  
hundred  
rupees

**4.** Whenever the amount levied under any such order issued for any default by authority of a Collector under this Act shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner of Revenue ; and no further levy for such default shall be made otherwise than by authority of the Commissioner of Revenue.

Saving of  
power to  
fine.

**5.** Nothing in this Act contained shall be deemed to repeal the power of imposing daily fines and of levying the fines so imposed in the manner prescribed by the said several Regulations.

' Collec-  
tor ''  
defined.

**6.** The word " Collector " used in this Act shall be taken to mean any person lawfully exercising the powers of a Collector.

Extent of  
Act.

**7.** *This Act shall not extend to the North-West Provinces<sup>[2]</sup> of the Presidency of Bengal.*

[1] See the Bihar and Orissa Public Demands Recovery Act, 1914 (B. and O. Act 4 of 1914), s. 4, in Vol. III of this Code.

[2] The designation of these Provinces has been changed—see the United Provinces Designation Act, 1902 (7 of 1902), in General Acts, 1898-09, Ed. 1923, p. 222.

ACT 25 OF 1850.

(THE FORFEITED DEPOSITS ACT, 1850).<sup>[1]</sup>

(14th June, 1850.)

An Act for the forfeiture to Government of deposits made on incomplete sales of land under Regulation 8, 1819<sup>[2]</sup> \* \* \*.<sup>[3]</sup>

Whereas *patnidars* \* \* \*<sup>[4]</sup> fraudulently avail themselves of the Preamble. provision <sup>[5]</sup>in section 9, Regulation 8, 1819,<sup>[2]</sup> of the Bengal Code \* \* \* <sup>[6]</sup> that forfeited deposits at sales of land \* \* \*<sup>[7]</sup> for arrears of rent shall be applied as if they were purchase-money; It is enacted as follows :—

1. (*Repeals.*) *Rep. by the Repealing Act, 1870 (14 of 1870).*

2. Any such forfeited deposit shall be applied to defray the expenses of the sale, and the surplus shall be forfeited to Government. Application of forfeited deposits.

[1] SHORT TITLE.—This short title was given by the Amending Act, 1897 (5 of 1897), Sch. III—*see post*, p. 543.

LOCAL EXTENT.—Since this Act supplements Ben. Regulation 8 of 1819, it must be taken to have been passed, like that Regulation (*ante*, p. 177), for the whole of the former Province of Bengal.

The Act has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the districts of Hazaribagh, Ranchi, Palamau and Manbhum and Pargana Dhalbhum and the Kolhan in the district of Singhbhum in the Chota Nagpur Division, *see* Vol. IV, Part III.

The Act is in force in the Sonthal Parganas—*see* Vol. IV, Part IV; but its application is barred in the Angul District by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 768.

[2] The Bengal Patni Taluks Regulation, 1819. It is printed, *ante* p. 177.

[3] The words and figures "and Act 4, 1846," in the title which were repealed by the Amending Act, 1891 (12 of 1891), are omitted.

[4] The words "and judgment-debtors," in the preamble, which were repealed by *ibid* are omitted.

[5] The provision here referred to was repealed by s. 1 of the present Act.

[6] The words and figures "and in section 5, Act 4, 1846," which were repealed by the Amending Act, 1891 (12 of 1891), are omitted.

[7] The words "in execution of decrees or", which were repealed by *ibid* are omitted.



ACT 6 OF 1853.

(THE RENT RECOVERY ACT, 1853.)<sup>[1]</sup>

(15th April, 1853.)

An Act relating to summary suits for arrears of rent, to sales of patni taluks and other saleable tenures, and to sales of land in satisfaction of summary decrees for rent.

Preamble.

*[Whereas by Regulation 8, 1831,<sup>[2]</sup> of the Bengal Code the hearing and decision of summary suits or claims relating to arrears or exactions of rents were transferred from the Judges of the Zila or City Courts to the Collectors of land-revenue of the several districts;*

*And whereas by Regulation 7, 1832,<sup>[3]</sup> of the Bengal Code the conduct of sales of patni taluks and other saleable tenures under Regulations 8, 1819,<sup>[4]</sup> and 1, 1820,<sup>[5]</sup> of the same Code, and the performance of other acts preparatory to, or connected with, such sales, were transferred to the Collector or Deputy Collector of Land-revenue or Head Assistant to the Collector or Deputy Collector, subject to an appeal as therein provided;*

*And whereas by Act 8, 1835,<sup>[6]</sup> the power theretofore vested in the Judge of the Diwani Adalat of selling land in satisfaction of summary decrees for rent was transferred to the Collectors of Land-revenue, and it was enacted that all sales for the recovery of arrears of rent held under clause 7, section 15, Regulation 7, 1799,<sup>[6]</sup> should be conducted by the Collector, his Deputy or duly authorized Assistant, and that ten days' notice should be given of such sales by advertisement to be stuck up at*

[1] SHORT TITLE.—This short title was given by the Amending Act, 1897 (5 of 1897) Sch. III—see *post*, p. 543.

LOCAL EXTENT.—This Act contains no local extent clause, but the intention probably was that it should extend to the same areas as the enactments cited in the preamble.

The Act has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the districts of Hazaribagh, Ranchi, Palamau and Manbhum, and Pargana Dhalbhum and the Kolhan in the district of Singhbhum in the Chota Nagpur Division, see Vol. IV, Part III.

The Act is in force in the Southal Parganas—see Vol. IV, Part IV; but its application is barred in the Angul District by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 768.

[2] Ben. Reg. 8 of 1831 was repealed by the Bengal Rent Act, 1859 (10 of 1859), s. I.

[3] Ben. Reg. 7 of 1832 was repealed by the Bengal Civil Courts Act, 1871 (6 of 1871).

[4] The Bengal Patni Taluks Regulation, 1819. It is printed *ante*, p. 177.

[5] The Bengal Patni Taluks Regulation, 1820. It is printed *ante*, p. 194.

[6] Act 8 of 1835 and Ben. Reg. 7 of 1799 were repealed by the Repealing Act, 1874 (16 of 1874).

(Secs. 1-3.)

*the cutcherry of the Zila Court or local Adalat and that of the Collector*  
 \* \* \* \* \*;[<sup>1</sup>]

And whereas doubts may be entertained as to who ought to exercise the jurisdiction transferred by the above-mentioned Regulations and Acts, where lands situate within the *zila* or other district of one Collector form part of an entire estate paying revenue to the Collector of another *zila* or district;

in order therefore to avoid such doubts, and also to define who are the proper officers to exercise such jurisdictions in cases where lands are situate in a district assigned to an independent Deputy Collector, and also in cases where lands held in *patni* or other tenure at one entire rent are situate in two or more Collectorates \* \* \* \* \*;[<sup>2</sup>]

It is enacted as follows:—

1. If the lands which may be the subject of any such sale, or to the rent of which any such suit may relate, be all situate in one collectorate, the Collector of such collectorate is the Collector to conduct the sale or to hear and decide the suit.

Conduct of sale of lands when all in one collectorate;

If one *taluk* or tenure shall comprise lands situate in two or more collectorates, or if any lands situate in two or more collectorates be held under one lease or engagement or at one entire rent, the Collector in whose collectorate the greater part of such lands shall be situate is the Collector to conduct the sale of such *taluk* or tenure or of such lands, and to hear and decide any summary suit relating to arrears or exactions of rent in respect thereof.

when in two or more collectorates.

2. If a Collector to whom application shall be made to exercise any of the powers above-mentioned shall entertain any doubt as to whether the lands or the greater part of them are situate within his collectorate, he shall report the case for the order of the Board[<sup>3</sup>] to which he is subordinate, and, if ordered by such Board[<sup>3</sup>] to proceed in the matter, such order shall be conclusive upon the question of his jurisdiction.

Procedure in case of doubt as to officer having jurisdiction.

3. The word "Collectorate" in this Act means the *zila* or other district to which a Collector is appointed, and no lands situate beyond the limits of such *zila* or district shall be deemed to be situate within the collectorate by reason of their forming part of an estate paying revenue to the Collector thereof.

"Collectorate" defined.

[1] Portion of the preamble relating to Act 25 of 1850, Regulation 8 of 1819, s 9, and other enactments which was repealed by the Amending Act, 1891 (12 of 1891), is omitted.

[2] The words "and to prevent any such decision or sale already made from being held invalid upon the ground of its having been made by an officer of a wrong district," which were repealed by *ibid* are omitted.

[3] As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act I of 1913), printed in Vol. III of this Code.

(Secs. 4-10.)

Powers and jurisdiction of independent Deputy Collector

**4.** An independent Deputy Collector may, within his Deputy collectorate, exercise all the powers and jurisdictions of a Collector with which he may be entrusted, in the same manner and to the same extent as a Collector may do within his collectorate; and, with reference to the exercise of such powers and jurisdictions, his Deputy collectorate shall be deemed a collectorate, and he shall be deemed to be a Collector within the meaning of this Act.

Independent Deputy Collector

**5.** An independent Deputy Collector is an officer appointed by Government to act as Deputy Collector independently of a Collector, whether his office is one for the receipt of revenue or not.

Deputy collectorate

A Deputy collectorate is the district within which an independent Deputy Collector is directed by Government to act.

Publication of notice of sale by independent Deputy Collector

**6.** In cases of sales by an independent Deputy Collector under the above-mentioned Regulations or Act, any notice thereby required to be stuck up at the *cutcherry* of the Collector may be stuck up at the *cutcherry* of the Deputy Collector.

Exercise of powers of independent Deputy Collector

**7.** An independent Deputy Collector may exercise the powers assigned to him over any part of his Deputy collectorate in public *cutcherry*, in whatever part of his Deputy collectorate the same may be situate or held.

Publication of notice required by law to be advertised

**8.** Any notice required by the above-mentioned Regulations or Act to be given by advertisement to be stuck up at the *cutcherry* of the Zila Court or local *Adalat* shall be stuck up at the Zila Court or local *Adalat* within the jurisdiction of which the lands to be sold, or the greater portion of them, as the case may be, shall be situate.

**9.** (Order, etc., not to be disputed on ground that Collector was not the Collector of proper district) Rep. by the Repealing Act, 1873 (12 of 1873).

**10.** (Extension of certain enactments to all sales under Act 8 of 1835.) Rep. by the Bengal Rent Recovery (Undertenures) Act, 1865 (Ben. Act 8 of 1865).

ACT 32 OF 1855  
(THE BENGAL EMBANKMENT ACT, 1855 ,

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## ACT 32 OF 1855.

(THE BENGAL EMBANKMENT ACT, 1855.)[1]

(30th November, 1855.)

### An Act relating to Embankments.

Whereas the Regulations now in force for the maintenance of em- Preamble.  
bankments in the territories under the Government of the Lieutenant-  
(Governor of Bengal[2] have been found ineffectual for the intended  
purposes thereof; and whereas it is desirable that provision should be  
made for the better supervision and protection of the same; It is enacted  
as follows :—

1. (*Repeal of Bengal Regulations 6 of 1806 and 11 of 1829.*) *Rep.*  
*by the Repealing Act, 1870 (14 of 1870).*

2. The word “ embankment ” in this Act means an embankment “ Embank-  
for the purpose of excluding or retaining water; and every embank- ment ” de-  
ment which is now kept up, or may hereafter be kept up, by the officers fined.  
of Government, at the expense either of Government or of any private  
person, is a public embankment within the meaning hereof.

3. The superintendence of the public embankments shall be Superinten-  
entrusted, subject to the general orders of Government, to an officer who dent of Em-  
shall be called the Superintendent of Embankments. bankments.

4. *Clause 1.*—The Superintendent of Embankments may cause Charge of  
any embankment which connects public embankments, or forms by embank-  
junction with them part of a line of embankments, or is necessary for ment  
the protection of the neighbouring country, to be taken charge of and connecting  
kept up by the officers of Government. public em-  
bankments,  
etc.

[1] **SHORT TITLE.**—This short title was given by the Amending Act, 1903 (1 of 1903),  
Sch. I—see *post*, p. 624.

**LOCAL EXTENT.**—This Act was declared by the Laws Local Extent Act, 1874 (15 of  
1874), s. 6 (printed in General Acts, 1873-86, Ed. 1928, p. 48), to be in force throughout  
the former Province of Bengal, except as regards the Scheduled Districts.

It had, however, previously been repealed everywhere, except in Orissa and the Sun-  
darbans, by the Bengal Embankment Act, 1873 (Ben. Act 6 of 1873), parts of which are  
printed in Vol. II of this Code.

The application of the Act is barred in the Angul District, by the Angul Laws Regu-  
lation, 1913 (3 of 1913), s. 3 (2), *post*, p. 768, and in the Sonthal Parganas by the Sonthal  
Parganas Settlement Regulation, 1872 (3 of 1872), s. 3 (2), as amended by the Sonthal  
Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, *post*, p. 700.

**Supplemental Provisions for Orissa**—see the Bengal Embankment Act, 1882 (Ben. Act  
2 of 1882), ss. 92 and 93, printed in Vol. II of this Code.

**Re-prints**—Act 32 of 1855 is reprinted in the Irrigation Manual, Bihar and Orissa,  
Compendium of Law, 1917, p. 285; and in Orissa Canals Manual, 1896, p. 133.

**FURTHER ENACTMENTS.**—For further enactments relating to embankments, see—

the Bengal Embankment Act, 1866 (Ben. Act 7 of 1866);  
the Bengal Embankment Act, 1873 (Ben. Act 6 of 1873); } in Vol. II of this Code.  
and  
the Bengal Embankment Act, 1882 (Ben. Act 2 of 1882).

[2] This includes the present Province of Bihar and Orissa except the district of  
Sambalpur.

(Sec. 6.)

Removing private embankment endangering public one.

*Clause 2.*—He may also cause any private embankment, which endangers the stability of a public embankment, or obstructs the beneficial drainage of the country, to be removed.

Changing line of embankment or making new one.

*Clause 3.*—He may also, when necessary, change the line of any public embankment, or make a new embankment.

Enlarging embankment, etc.

*Clause 4.*—He may also enlarge any public embankment, and do all acts necessary and proper for the maintenance thereof.

Notice to Collector before taking charge, etc.

*5. Clause 1.*—Before the Superintendent shall cause any of the works mentioned in the first three clauses of the next preceding section to be executed, he shall give notice in writing to the Collector of the district of his intention so to do.

Issue of proclamation.

Upon the receipt of such notice the Collector shall cause a proclamation to be issued, incorporating the substance of the notice, and calling upon all persons interested, who may be desirous of showing cause against the execution of such works, to appear before him on a certain day to be named therein.

Publication of proclamation.

*Clause 2.*—The proclamation shall be published by affixing the same in the *cutcherry* of the Collector, the *mal cutcherry* (if any) of the estate on which the works are intended to be executed, and on some conspicuous spot in the neighbourhood thereof.

The proclamation shall be published not less than fifteen days before the day appointed for hearing the parties interested.

Procedure on appearance of parties.

*Clause 3.*—The Collector shall hear the objections of any parties who may appear, and, after recording any evidence which they may adduce, shall communicate the objections that may be made, together with his opinion thereon, to the Superintendent of Embankments.

If the Superintendent agree in opinion with the Collector, he shall pass an order accordingly.

If he differ from the Collector, the case shall be referred to the Commissioner of Revenue, who shall pass such orders thereon as he may deem fit.

Appeal from orders of Superintendent and Commissioner.

*Clause 4.*—Every such order passed by the Superintendent shall be appealable to the Commissioner of Revenue, and every order of the Commissioner shall be appealable to the Board of Revenue<sup>[1]</sup>; but no

[1] As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

(Secs. 6-7.)

appeal shall lie against any order passed under this section, unless the same be presented within one month from the date of the order

*Clause 5.*—Subject to the right of appeal abovementioned and to the orders and control of Government, every order passed under this section shall be final and shall not be open to revision by any Civil Court, and shall be conclusive as to the necessity of any works ordered to be executed. (Orders not open to revision by Civil Court)

**6.** Whenever the Superintendent of Embankments shall hereafter cause an embankment which any person is bound to keep up to be taken charge of by the officers of Government, the expense of keeping up such embankment shall be charged to such person : (Charging cost of maintaining private embankments in charge of Government officers.)

Provided that the amount so charged shall not exceed the reasonable expense of keeping up an embankment of the size and description which such person was bound to keep up, notwithstanding the embankment shall have been enlarged or improved by the officers of Government

**7. Clause 1.**—When the Superintendent of Embankments shall enlarge or change the line of any embankment, or make a new embankment, or cause an embankment to be removed, any person sustaining damages thereby, who, but for the passing of this Act, would be entitled to compensation, may prefer his claim for such compensation to the Collector of the district, at any time within twelve months after the execution of the work by which he is endamaged, and the Collector thereupon shall report the case for the orders of the superior Revenue-authorities. (Compensation for damages.)

If the claim be rejected, the claimant shall not be deprived, by reason of this Act, of any right which he might otherwise have had to recover such compensation by a civil action; but such action shall not lie unless the claimant shall have first preferred his claim to the Collector within the period abovementioned, nor unless the suit be brought within a period of one year after notice to the claimant of its rejection.

If the claim for compensation be admitted by the Revenue-authorities, and the amount of compensation cannot be agreed upon, the same shall be settled by arbitration, in the manner hereinafter provided, and in no other manner, unless by the consent of the claimant and of the superior Revenue-authorities.<sup>[1]</sup>

*Clause 2.*—Unless the Collector and the claimant concur in the appointment of a single arbitrator, the Collector on the part of Government, and the claimant, shall each appoint an arbitrator. (Appointment of arbitrators.)

The appointment shall be in writing, and neither of the said parties shall have power to revoke the same without the consent of the other.

[1] For a restriction upon the payment of compensation, see the Bengal Embankment Act, 1866 (Ben. Act 7 of 1866), s. 1, in Vol. II of this Code.



## (Sec. 7.)

**Arbitrator**  
how chosen  
when there  
are several  
claimants  
for compen-  
sation.

*Clause 3.*—If there be several claimants for compensation in respect to the same injury, and they cannot agree in the appointment of an arbitrator on their behalf, in that case each of them may nominate one person; and the Collector shall choose by lot out of the persons so nominated by the parties or any of them a person to act as arbitrator on behalf of the claimants.

If only one person shall be so nominated, he shall be the arbitrator on behalf of the claimants.

**Appoint-  
ment of  
third arbi-  
trator.**

*Clause 4.*—When more than a single arbitrator shall be appointed, the arbitrators shall, before they enter upon the matters referred to them, nominate and appoint by writing a third person to act with them as arbitrator; and, in case the arbitrators shall neglect to appoint such third arbitrator for a period of seven days after having been required so to do, the Collector may appoint such third arbitrator.

If the arbitrators differ in opinion, or if one of them, having received due notice of a meeting of arbitrators, neglect to attend, any two arbitrators may make an award.

**Appoint-  
ment in  
place of  
arbitrator  
not acting.**

*Clause 5.*—If any person on being appointed an arbitrator shall refuse to act, or after accepting the appointment shall die or become incapable of acting, another person shall be appointed in his stead, in the same manner in which the first person was appointed.

**Collector  
empowered  
to enforce  
attendance  
of arbitra-  
tors.**

*Clause 6.*—After the arbitrators have accepted the appointment, the Collector shall be competent to exercise towards them such powers and authority, for securing their attendance and the due completion of their award, as the said Collector may legally exercise towards witnesses summoned before him when acting judicially for the purposes of compelling them to attend and give evidence.

**In default  
of award  
within  
specified  
period,  
fresh arbi-  
trators  
may be  
chosen.**

*Clause 7.*—If no award be made within a period to be fixed for that purpose by the Collector, he may order that the matter shall be referred to another arbitrator or other arbitrators, to be chosen in the same manner and subject to the same rules as the first.

**Collector to  
furnish  
information  
to arbitra-  
tors, and to  
enforce  
attendance  
and exami-  
nation of  
witnesses,  
etc.**

*Clause 8.*—The Collector shall furnish to the arbitrators, or, so far as may be in his power, procure for them, any information which his records or those of any public department may afford connected with the subject of inquiry.

He shall, on the application of the arbitrators, summon any witnesses whom the arbitrators may call for, and whom the parties may not be able to produce before them without such process, and require the persons so summoned to bring and produce before them all such books, papers, deeds, writings, maps and plans as they shall require.

## (Sec. 7.)

He shall also cause the proper affirmation to be made and signed by any witness whom the arbitrators may desire to examine upon affirmation, or he may empower the arbitrators to cause such affirmation to be made and signed before them.

Any witness who shall refuse or omit to appear when duly summoned by the Collector, or who shall appear but shall refuse to make such affirmation, or who shall refuse to give evidence, shall be liable to the same punishment which would be incurred under the law by a witness refusing to appear or give evidence before the Collector when acting judicially. Penalty on witness not appearing

Any person giving intentionally and deliberately a false deposition under an affirmation, in any case referred to arbitration as above, shall be held to be guilty of perjury, and shall be liable to the penalties prescribed for that offence by law. Penalty for false deposition.

*Clause 9.*—On the close of the inquiry the arbitrators shall deliver a full and complete award, which shall specify the amount of compensation and the party or parties entitled thereto. Award of arbitrators.

The proceedings of the arbitration shall be deposited in the Collector's office; and every party interested therein shall be entitled to a copy of the award on plain paper under the seal and signature of the Collector, which copy shall be *prima facie* evidence thereof.

*Clause 10.*—If the right to the compensation awarded shall in any case be doubtful, or if there exist any ground which, in the judgement of the arbitrators or of the Collector, render it improper to make immediate payment thereof to any of the claimants, the amount shall be invested in Government securities, and held in deposit until one of the claimants shall obtain an order of Court for the payment thereof. When payment of compensation may be deferred.

*Clause 11.*—No award passed under this section shall be liable to be reversed or altered, except by the decision of a Civil Court on the ground of corruption or misconduct of the arbitrators, and no suit to set aside such an award shall be entertained, unless it be instituted within three months from the date of the award. Reversal or alteration of award.

In case the award shall be so reversed, the matter shall be referred to another arbitrator or other arbitrators, to be appointed in the same manner as the first.

*Clause 12.*—All suits and proceedings instituted against Government in any case in which compensation has been awarded, except suits instituted for the reversal of awards as aforesaid, shall be dismissed with costs. Dismissal of suits against Government.

Proviso.

But nothing herein contained shall affect the right of any party to recover the amount awarded from any person who may have received the same without any just title thereto.

Estimated value of benefit to be set off against compensation awarded.

*Clause 13.*—In fixing the amount of compensation to which any person may be entitled by reason of any of the acts mentioned in *Clause 1* of this section, the Court of arbitrators, as the case may be, shall take into consideration whether any party to the suit or arbitration has derived or will derive benefit from the act in respect of which the compensation is claimed, and shall set off the estimated value of such benefit, if any, against the compensation which would otherwise be decreed or awarded to that party.

Exception of cases of compensation in respect to huts, trees, or crops.

*Clause 14.*—The provisions of this section shall not be held applicable to cases in which the compensation to be made has reference only to huts, trees or crops which it may be necessary to remove or destroy in enlarging or changing the line of a public embankment.

In all such cases the officer in charge of the public embankments of the district shall report to the Collector, and the Collector shall thereupon proceed to value and make compensation for such huts, trees and crops, in the manner prescribed in section 12 of this Act.

Application by landholder to have a sluice made in public embankment.

**8.** *Clause 1.*—If any landholder, farmer or cultivator be desirous of having a sluice made in any public embankment for the purpose of drainage or irrigation, he shall make an application in writing to the Collector of the district in which such embankment is situate.[1]

The application shall contain such particulars of the land to be drained or irrigated as may enable the officers of Government to judge of the advantage which may be derived from the work, and shall declare, as regards an embankment maintained at the expense of the State, whether the applicant is willing to bear such part, not exceeding half of the cost thereof, as may be determined by Government; and, as regards any other public embankment whether the applicant is willing to defray the whole or such part of the cost incident to, and attendant on, the proposed work, as may be determined as aforesaid.

Officer in immediate charge to report on proposed work.

*Clause 2.*—The Collector shall transmit such application to the officer in charge of the embankments of the district, who shall report his opinion thereon to the Superintendent of Embankments, and, if he be of opinion that compliance with the application is unobjectionable shall annex to his report a plan of the proposed work and an estimate of the expense of its construction.

[1] As to apportionment of cost of sluice where lands of several owners are benefited, see the Bengal Embankment Act, 1866 (Ben. Act 7 of 1866), s. 6, in Vol. II of this Code.

## (Secs. 9-11.)

The Superintendent of Embankments shall pass such order thereon as he shall think fit, which order shall be final.

*Clause 3.*—If the construction of the proposed sluice receive the approval of the Superintendent of Embankments, the Collector shall require the applicant to enter into a written agreement to defray the whole or half of the expense or such portion thereof as may be determined under the provisions of *Clause 1* of this section, and, upon such agreement being executed, shall issue a certificate to the officer in charge of the public embankments of the district to construct the sluice.

**9.** Sluices constructed in any public embankment shall be opened only by, or with the permission of, the officer in the immediate charge of the embankment, under such orders, either general or special, as he may receive from the officer in charge of the public embankments of the district or from the Superintendent of Embankments.

**10.** Whenever any person is desirous that a temporary watercourse should be made through, or that a temporary roadway should be made over, any public embankment, or that a temporary dam should be constructed in any embanked river, he shall apply to the nearest officer of the Embankment Department, who shall communicate the application to the officer in charge of the public embankments of the district, and that officer shall pass such orders thereon as he shall think fit, subject to the control of the Superintendent of Embankments.

If the proposed work is to be executed by an officer of Government, the applicant, before the commencement of the work, shall enter into a written agreement to defray the expenses of, and incident to, making such roadway, or of making and closing or removing such watercourse or dam.

In any case of emergency the officer in immediate charge of an embankment, subject to such general instructions as he may receive from the officer in charge of the embankments of the district, or from the Superintendent of Embankments, may cause a temporary watercourse to be made through such embankment.

**11. Clause 1.**—Specifications of the work and estimates of the expense which may be required for the maintenance or improvement of embankments kept up at the expense of *zamindars* or others shall be prepared as soon after the rains in each year as may be practicable.

Copies of the specifications and estimates shall be transmitted to the office of the Collector, and may be examined by any person interested in the embankments.

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Opening of  
sluices

Officer in  
immediate  
charge may  
authorize  
temporary  
watercourse,  
etc., to be  
made

Annual  
specifica-  
tions and  
estimates  
for main-  
taining or  
improving  
embank-  
ments kept  
up at  
expense of  
*zamindars*.

## (Sec. 11.)

Notice of the receipt of the specifications and estimates shall be posted up in the Collector's office; and, should any objection be preferred by any such person within a period of one month from the date of such notice, the Collector shall communicate the objection, with his own opinion thereupon, to the Superintendent of Embankments, who shall pass such orders as may appear to him reasonable and proper :

Provided, however, that, if the objection refer to the construction of sluices or other new works, any person dissatisfied with the order of the Superintendent may appeal to the Commissioner, who, subject to the orders of the Board of Revenue<sup>[1]</sup> and of Government, may disallow the construction of the work.

Accounts to be forwarded to Collector, who may recover as arrears of Government revenue.

*Clause 2.*—The accounts of the actual expense incurred in maintaining or improving embankments kept up at the expense of *zamindars* or others, and in constructing and repairing sluices and making temporary watercourses or roadways through or over any public embankment, or executing any other work the expense of which may be chargeable to individuals, shall be prepared as soon as possible after the completion of such works, and shall, as soon as such accounts shall have received the sanction of the Superintendent of Embankments, be forwarded to the office of the Collector, and may be there examined by any person interested.

Notice of the receipt of the accounts shall be posted up in the Collector's office; and if, within one month from the date of such notice, any interested person shall object to the accounts, on the ground either that the work charged for has not been performed, or that the whole sum charged has not been expended, or that the rates of charge are higher than the estimate, the Collector shall inquire into such objection, and if the objection appear to be well founded, shall communicate the same with his opinion thereon, to the Superintendent of Embankments.

If the Superintendent concur with the Collector, he shall pass order accordingly; if he differ, the case shall be reported to the Commissioner whose decision shall be final.

When the objection shall have been finally disposed of, or, if no objection be preferred when a full month shall have elapsed from the date of notice, the Collector shall proceed to levy the amount from the parties liable to pay the same, by the process<sup>[2]</sup> which is or may be in force for the recovery of arrears of Government revenue.

[1] As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[2] See now the Bihar and Orissa Public Demands Recovery Act, 1914 (B. and O. Act 4 of 1914), ss. 4 and 15, in Vol. III of this Code.

(Secs. 12-13.)

**12. Clause 1.**—Whenever the Superintendent of Embankments shall be of opinion that the removal of any houses, huts or other buildings, situated between a public embankment and the river, is necessary, he shall make a report to that effect, accompanied by a detailed statement of the houses, huts or other buildings to be removed, to the Collector of the district in whose jurisdiction the land on which such houses, huts or other buildings stand, is situated.

Superintendent to report to Collector as to removal of buildings, etc.

**Clause 2.**—When such report is received the Collector shall cause a notice, containing a general description of the houses, huts or other buildings proposed to be removed, to be affixed in some conspicuous place upon the land, and to be published by proclamation in the nearest bazar, calling on all persons claiming a right in such houses, huts or other buildings to appear in person or by authorized agent at a place to be specified in the notice, on or before a given date, not being less than fifteen days from the date of such proclamation, in order to make known the amount and particulars of their claim to compensation to a jury to be appointed in the following manner :—

Collector to give notice to claimants.

**Clause 3.**—The Collector shall direct a Deputy Collector or a principal officer of his establishment to proceed to the spot, and there to select three respectable inhabitants of the neighbourhood, to form with himself a jury for determining the value of the houses, huts or buildings, and, if any dispute should arise, the rights of the claimants.

Selection of jury.

**Clause 4.**—The jury shall assess the value of each house, hut or building separately.

Proceedings of jury.

If in any case they differ, the value shall be assessed according to the opinion of the majority; and, if they be equally divided, the Deputy Collector or other officer as aforesaid shall have a casting vote.

**Clause 5.**—Having completed their proceedings, the jury shall make their award, which shall contain a schedule of the houses, huts and buildings, the amount of value assessed on each, and the name of the person or persons entitled to receive the same.

Award of jury.

The award shall be final and conclusive and not open to question in the Civil Court :

Provided always that any person who was not present at the inquiry, or whose claim may have been set aside by the jury, may institute a suit for the value of the property claimed by him against the person to whom payment may have been made under the award.

**13.** The Collector, on receiving the award, shall cause a notice to be affixed in some conspicuous place upon the land, with a citation calling on the parties to appear before him or the Deputy Collector or

After award, Collector to give notice



(Secs. 18-21.)

**18.** Any Deputy or Assistant Magistrate may take cognizance of Jurisdiction offences under this Act, and may punish offenders to the extent of the of Deputy power conferred upon him by the Regulations of the Bengal Code, and or Assistant by the Acts of the Governor-General of India in Council \*\*\*[<sup>1</sup>] Magistrate.

**19.** (*Provision of s. 13 of Bengal Regulation 20 of 1817 extended to this Act.*) *Rep. by the Repealing Act, 1874 (16 of 1874).*

**20.** All sentences and orders passed by a Magistrate, Deputy Magis- Right of trate or Assistant under this Act shall be appealable, subject to the appeal. general provisions which regulate appeals.

**21.** In the construction of this Act, \* \* \* \* [<sup>2</sup>] the word Interpreta- "Collector" shall mean any Collector, Deputy Collector or other tion. revenue-officer in independent charge of any district or portion of a district.

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[1] The words "with respect to the punishment of misdemeanours," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[2] The provision as to number and gender, which was repealed by the Amending Act, 1903 (1 of 1903), is omitted. See now the General Clauses Act, 1897 (10 of 1897), s. 13, in General Acts, 1887-97, Ed. 1928, p. 344.



# ACT 37 OF 1855.

(THE SONTHAL PARGANAS ACT, 1855.)<sup>[1]</sup>

(22nd December, 1855.)

An Act <sup>[2]</sup> to remove from the operation of the general Laws and Regulations certain districts inhabited by Sonthals and others, and to place the same under the superintendence of an officer to be specially appointed for that purpose.

Preamble. <sup>[2]</sup> Whereas the general Regulations and Acts of Government now in force in the Presidency of Bengal are not adapted to the uncivilized race of people called Sonthals, and it is therefore expedient to remove from the operation of such laws the district called the Dámin-i-Koh, and other districts which are inhabited principally by that tribe; It is enacted as follows :—

Districts removed from operation of General Regulations. **1. Clause 1.**—<sup>[2]</sup> The districts described in the Schedule to this Act are hereby removed from the operation of the general Regulations of the Bengal Code and of the laws passed by the Governor General of India in Council, except so far as is hereinafter provided; and no law which shall hereafter be passed by the Governor General of India in Council shall be deemed to extend to any part of the said districts, unless the same shall be specially named therein :

Proviso. *Provided that nothing herein contained shall \* \* \*<sup>[3]</sup> remove any part of the said districts from the operation of Regulation 10 of 1804<sup>[4]</sup> of the Bengal Code; nor shall this Act affect any revenue-settlement, nor any law relating to the recovery of permanently-settled land-revenue due under the same, nor any law relating to the sale*

[1] SHORT TITLE.—This short title was given by the Amending Act, 1903 (1 of 1903), Sch. I, *post*, p. 624.

LOCAL EXTENT.—This Act extends only to the Sonthal Parganas, as described in the Schedule, *post*, p. 330—see s. 1, clause 1. It is formally included in the Schedule of laws in force in these Parganas—see *post*, p. 713.

PROSPECTIVE REPEAL.—The Act will be repealed by the Scheduled Districts Act, 1874 (14 of 1874), (printed in the General Acts, 1873-86, Ed. 1928, p. 31), whenever this Act is brought into force in the Sonthal Parganas.

For an order issued under Act 37 of 1855, as to the powers of Sub-Deputy Collectors, see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

[2] The portions of the title, preamble and s. 1 which are printed in italics appear to be superseded by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3, printed *post*, p. 755.

[3] The words " extend to or affect any case now pending in any Court, nor, " which were repealed by the Amending Act, 1891 (12 of 1891), are omitted.

[4] The Bengal State-Offences Regulation, 1804, was repealed by the Special Laws Repeal Act, 1922 (4 of 1922).

(Secs. 2-4.)

of lands for arrears of revenue, or relating to patni taluks or to the sale thereof for arrears of rent, nor any law relating to mutations or batwara or to any other matter to which the Lieutenant-Governor of Bengal shall at any time notify in the Calcutta Gazette that the general Laws and Regulations shall extend.

Clause 2.—The said districts shall be placed under the superintendence and jurisdiction of an officer or officers<sup>[1]</sup> to be appointed in that behalf by the Lieutenant-Governor of Bengal, and such officer or officers shall be subject to the directions<sup>[2]</sup> and control of the said Lieutenant-Governor.

Superintendence of districts.

2. The administration of civil and criminal justice and the collection of the revenue, not being permanently-settled land-revenue within the said districts, are hereby vested in the officer or officers to be so appointed :

Administration of justice and collection of revenue.

Provided that all civil suits in which the matter in dispute shall exceed the value of one thousand rupees shall be tried and determined according to the general laws and Regulations in the same manner as if this Act had not been passed :<sup>[3]</sup>

Suits exceeding value of one thousand rupees.

Provided also that all permanently-settled land-revenue shall be collected and paid at the same places and in the same manner as if this Act had not been passed.

Collection of permanently-settled land revenue.

3. In the administration of civil and criminal justice the officer or officers appointed under this Act<sup>[4]</sup> \* \* \* \* \* may hold his or their Courts either within the said district or at any place or places that may be appointed for that purpose by the said Lieutenant-Governor; and any person liable to be imprisoned in any civil or criminal jail may be imprisoned in any civil or criminal jail, as the case may be, which the said Lieutenant-Governor may order, whether the same be in or out of the said district.

Administration of civil and criminal justice.

4. [Decisions final; confirmation of death-sentence; appeal; procedure on references to Sadar Court.] *Rep. by the Sonthal Parganas Justice Regulation, 1893 (5 of 1893).*

[1] For provisions as to Courts of Officers appointed under this section, see the Sonthal Parganas Justice Regulation, 1893 (5 of 1893), Ch. III, Part II, *post*, p. 743.

[2] Any directions issued under clause 2 of s. 1 must be consistent with enactments in force in the Sonthal Parganas—see the Sonthal Parganas Justice Regulation, 1893 (5 of 1893), s. 27, *post*, p. 747.

[3] In reference to this proviso, see the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3 (2), *post*, p. 700, and the Sonthal Parganas Justice Regulation, 1893 (5 of 1893), s. 15, *post*, p. 743.

[4] The words "shall be guided by the spirit and principle of the Civil and Criminal Laws administered in the Courts of the East India Company in the Presidency of Bengal, but shall not be bound to take the *fatwa* of a Law-officer; and he or they," which were repealed by the Sonthal Parganas Justice Regulation, 1893 (5 of 1893), are omitted.

(Secs. 5-6.)

5. [Saving of laws relating to European British subjects.] Rep. by the Sonthal Parganas Justice Regulation, 1893 (5 of 1893).

6. [Commencement of Act.] Rep. by the Repealing Act, 1870 (14 of 1870).

## [1]SCHEDULE.

The Dámin-i-Koh.

So much of Pargana Bhágalpur and of Pargana Satiyári as lies east of the Geruá Nadi and south of a line drawn eastward from Hamzá Chak to the village of Dighi.

ZILA BHAGALPUR	{	Pargana Tiliyagārhī.	}	Except such parts of them as are now or may hereafter be situate on the left bank of the main stream of the Ganges, so that in any change in the course of the river the main stream shall be the boundary.	
	„	Jamuni.			
		Chituliya.			
		Kānkjaul.			
		Bahādarpur.			
		Akbarnagar.			
		Ināyatnagar.			
	„	Makrāin.			
		Sultanganj.			
	„	Ambar.			
	„	Sultānābād.			
	„	Goddā.			
	„	Amolmotiyā.			
	„	Pasai.			
„	Hāndwā.				
ZILA BIRBHUM		Tappa Manihāri.	}	Except such detached villages as lie within the general boundaries of parganas not mentioned in this schedule.	
	„	Belpattā.			
	{	Pargana Pabbiya.			}
		Tappa Sarath Deogarh.			
	„	Kandit Karaiyā.			
	„	Muhammadābād.			
	Such part of Pargana Darin Mauleshwar as lies north of the Chilla or Chandan Ghāt Nala.				

[1] This Schedule was virtually substituted for the original schedule by the Sonthal Parganas Act, 1857 (10 of 1857), printed, *post*, p. 332.

## (Sec. 6.)

Such detached portions of other parganas and tappas as lie within the general boundaries of any of the above-mentioned parganas and tappas.

Such portions of parganas belonging to Malda and Purnea below the village of Khidirpur in Pargana Tiliyagarhi, as are now or may hereafter be situate on the right bank of the main stream of the Ganges.

ACT 10 OF 1857.

(THE SONTHAL PARGANAS ACT, 1857.)<sup>[1]</sup>

(20th May, 1857.)

An Act to amend Act 37 of 1855.

Preamble.

Whereas by Act 37 of 1855 certain districts described in the schedule to the said Act were removed from the operation of the general Regulations and Acts; and whereas it is expedient to make certain alterations in respect to the districts so removed; It is enacted as follows:

Districts  
removed  
from operation  
of  
General  
Regulations  
and Acts.

\* \* \*<sup>[2]</sup> all the provisions of the said Act, which are applicable to the districts described in the said schedule, shall, after the passing of this Act, be applicable only to the districts described in the schedule to this Act, in the same manner as if the schedule to this Act had been the schedule to Act 37 of 1855.

SCHEDULE.

[Printed *ante*, p. 330.]

[1] SHORT TITLE.—This short title was given by the Amending Act, 1903 (1 of 1903), Sch. I, printed *post*, p. 625.

LOCAL EXTENT.—This Act extends to the Sonthal Parganas, as described in the Schedule, printed *ante*, p. 330.

PROSPECTIVE REPEAL.—This Act will be repealed by the Scheduled Districts Act, 1874 (14 of 1874), (printed in the General Acts, 1873-86, Ed. 1928, p. 32), whenever that Act is brought into force in the Sonthal Parganas.

[2] Portion repealed by the Repealing Act, 1870 (14 of 1870), is omitted.

ACT 13 OF 1857.  
(THE OPIUM ACT, 1857.)

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29. Place of imprisonment under section 28.
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31. Governor General may allow free cultivation of poppy and manufacture of opium in any district.  
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ACT 13 OF 1857.

(THE OPIUM ACT, 1857.)<sup>[1]</sup>

(6th June, 1857.)

**An Act to consolidate and amend the law relating to the cultivation of the poppy and the manufacture of opium in the Presidency of Fort William in Bengal.**<sup>[2]</sup>

**Preamble.**

Whereas the existing law relating to the cultivation of the poppy and the manufacture of opium on account of Government is in some respects inconsistent with the practice which now obtains under agreement between the Opium Agents and the cultivators, and it is expedient that such inconsistency should be removed;

And whereas it is also expedient \* \* \*<sup>[3]</sup> that the laws for preventing the illicit cultivation of the poppy, and for regulating the cultivation of the poppy and the manufacture of opium on account of Government, should be consolidated and amended;

[<sup>1</sup>] **SHORT TITLE.**—This short title was given by the Amending Act, 1903 (1 of 1903) Sch. I—*see post*, p. 625.

**LOCAL EXTENT.**—This Act was passed for the whole of the former Province of Bengal—*see the title*.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (in General Acts, 1873-86, Ed. 1928, p. 48), to be in force throughout the former Province of Bengal except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the districts of Hazaribagh, Ranchi, Palamau and Manbhum, and Pargana Dhalbhum and the Kolhan and the Porahat Estate in the district of Singhbhum, in the Chota Nagpur Division, *see* Vol. IV, Part III of this Code. It is in force in the Sonthal Parganas—*see* Vol. IV, Part IV.

The application of the Act is barred in the Angul District by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 768.

The Act ceases to be in force in districts in respect of which an order is published under s. 31—*see that section. post*, p. 342.

The validity of the Act is not affected by the Dangerous Drugs Act, 1930 (2 of 1930), or by the rules made thereunder, *see ibid.*, s. 39 (2).

**OTHER ENACTMENTS.**—For the general law as to opium, *see* the Opium Act, 1878 (1 of 1878), in General Acts, 1873-86, Ed. 1928, p. 110.

As to the levy of customs duty on opium, *see*—

the Sea Customs Act, 1878 (8 of 1878), ss. 20 (b) and 50 (d) (in General Acts, 1873-86, Ed. 1928, pp. 146, 155), and

the Indian Tariff Act, 1894 (8 of 1894), ss. 2 (4), 3, 5, 7 and Sch. III (in General Acts, 1887-97, Ed. 1928, pp. 238, 239, 270).

As to securing the attendance of officers of the Opium Department before Criminal Courts, *see* the Bengal Police Regulation, 1817 (20 of 1817), s. 29 (1) to (4), *ante*, pp. 145—146.

As to the suppression, by the police, of the illicit cultivation, manufacture, sale, purchase, importation, transport and possession of opium, *see ibid.*, s. 29 (9), (12), *ante*, p. 147.

[<sup>2</sup>] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

[<sup>3</sup>] The words "that certain obsolete Regulations relating to the provision of opium should be formally repealed and," which were repealed by the Amending Act, 1891 (12 of 1891), are omitted.

(Secs. 1-6.)

It is enacted as follows :—

1. (*Laws repealed.*) *Rep. by the Repealing Act, 1870 (14 of 1870).*

2. (*Prohibition of poppy cultivation and opium manufacture.*) *Rep. by the Opium Act, 1878 (1 of 1878).*

[<sup>1</sup>][3. (1) The Governor General in Council, after consideration of any recommendation made in this behalf by the Local Government of the province for which the appointment is to be made, may appoint Opium Agents to superintend the provision of opium for Government.

Appoint-  
ment of  
officers to  
superintend  
provision  
of opium.

(2) The Governor General in Council may appoint officers to assist the Opium Agents, under the designation of Deputy Agents, district opium officers, assistant opium officers, or such other designations as he may think fit, and may delegate to the Opium Agents the power of appointing all or any of such officers.

(3) Unless the Governor General in Council, after consideration of any recommendation made by the Local Government in this behalf, otherwise directs, the Collector shall be Deputy Agent for his district.

(4) The Governor General in Council may by rule prescribe the powers and duties of officers appointed under this section.]

4. The Opium Agents, and their subordinate officers of every description, are declared amenable to the Civil Courts for all acts done by them in their official capacity, except as otherwise herein provided.

Officers  
amenable  
to Civil  
Courts.

But no suit shall be instituted against an Agent, or any subordinate officer, for any act done in his official capacity, unless the person who shall consider himself aggrieved by the act of such Agent or officer shall have first made application for redress to the Agent himself.

Bar of suit  
without  
previous  
application  
to Agent  
for redress.

In the event of such person not being satisfied with the order which the Agent may pass upon his application, it shall then be competent to him either to lay his case by petition before [<sup>2</sup>] [Government], or at once to seek redress in the Civil Court.

5. The Opium Agents shall not in their official capacity institute any suit in a Civil Court without the previous sanction of [<sup>2</sup>] [Government.]

Sanction to  
suit by  
Agent.

[<sup>3</sup>] [6. Government may take upon itself, or entrust to an officer specially appointed for the purpose, the superintendence of the prosecution or defence of any suit or appeal in which Government or an Agent, or any other officer subordinate to Government, may be engaged, instead of leaving such superintendence to the Agent or any other officer.]

Power of  
Govern-  
ment to  
appoint  
officer to  
conduct  
suits.

[<sup>1</sup>] This section was substituted for the original section by the Opium (Amendment) Act, 1925 (27 of 1925), s. 2 and Sch., *post* p. 691.

[<sup>2</sup>] This word was substituted for the words "the Board of Revenue" by *ibid.*

[<sup>3</sup>] This section was substituted for the original section by *ibid.*



(Secs. 7-10.)

Board to fix limits of cultivation and price to be paid to cultivators. 7. [1]\* \* \* \* Government shall from time to time fix the limits within which licenses may be given for the cultivation of the poppy on account of Government.

[2] [Government] shall from time to time fix the price to be paid to the cultivators for the opium produced.

The price shall be fixed at a certain sum per seer of eighty *tolas* for opium of a certain standard consistence, and shall be subject to a rateable reduction according to a scale sanctioned by [3][Government], for opium of a consistence below the standard.

Issues of licenses.

8. The [4] [district opium officers] or other officers entrusted with the superintendence of the cultivation shall, at the proper period of the year, issue licenses to the cultivators who may choose to engage to cultivate the poppy and to deliver the produce to the officers of Government at the established rates.

What to be specified in license.

Every license shall specify the number of *bighas* which the party engages and is authorized to cultivate, and shall be in such form as the Agent, with the sanction of [5] [Government] may direct.

Cultivator to have option to engage to cultivate or not.

Officers compelling cultivator to engage liable to be dismissed.

District opium officer may withhold license to cultivate. Appeal.

9. It shall be at the option of every cultivator to enter into engagements for the cultivation of the poppy or not as he may think fit; and any [5] [district opium officer] or other officer as aforesaid, or any inferior officer employed in the provision of opium, who shall compel, or use any means to compel, any cultivator to enter into engagements, or to receive advances, for the cultivation of the poppy, shall be liable to be dismissed from his situation.

It shall be at the option of the [5] [district opium officer] or other officer as aforesaid to withhold a license from any cultivator whenever he may think proper so to do.

Any person to whom a license has been refused may appeal to the Agent and the decision of the Agent shall be final.

Penalty on cultivator receiving advances and not cultivating full quantity of land. Adjudication of penalty.

10. If it shall be found that any cultivator who has received advances from Government has not cultivated the full quantity of land for which he received such advances, he shall be liable to a penalty of three times the amount of the advances received for the land which he has failed to cultivate; and the said penalty may be adjudged by the Deputy Agent or Collector, on the complaint of the [6] [district opium officer] or other officer as aforesaid.

[1] The words "The Board of Revenue with the sanction of", which were repealed by the Opium (Amendment) Act, 1925 (27 of 1925), s. 2 and Sch., are omitted.

[2] This word was substituted for the words "With the like sanction they", by *ibid.*

[3] This word was substituted for the words "the Board of Revenue", by *ibid.*

[4] These words were substituted for the words "Sub-Deputy Agents", by *ibid.*

[5] These words were substituted for the words "Sub-Deputy Agent", by *ibid.*

## (Secs. 11-13.)

Any person dissatisfied with the judgment of the Deputy Agent or Collector may appeal to the Agent, and the decision of the Agent shall be final. Appeal.

**11.** All opium the produce of land cultivated with poppy on account of Government shall be delivered by the cultivators to the [1] [district opium officers] or [2] [other officers duly authorized to receive such opium], or shall be brought by them to the *sadar* factory, as the Agent may direct. Delivery of opium produced.

And no such opium shall be liable to be distrained or attached by a *zamindar* or other proprietor, or a farmer of land, for the recovery of arrears of rent, or by any other creditor of a cultivator under any order or decree of Court, but the sum due to the cultivator on account of such opium may be attached by order of Court in the hands of the Agent or [3] [other] officer under the rules in force for such attachments. Opium not liable to distress or attachment. Value there of may be attached.

**12.** All opium delivered by the cultivators to the [4] [district opium officer] or [5] [other officer authorised as aforesaid] shall, before it is forwarded to the *sadar* factory, be weighed, examined and classified according to its quality and consistence by that officer, or his assistant if duly authorized by the Agent in that behalf, in the presence of the cultivators and in conformity with rules sanctioned by [6] [Government]. Opium to be weighed and classified by district opium officer.

Any cultivator who may be dissatisfied with the classification of the [7] [receiving officer] shall be at liberty either to take his opium to the *sadar* factory, or to have it forwarded thither by such officer separate from the opium respecting which no dispute has arisen. Proceeding where cultivator is dissatisfied with classification.

**13.** All opium forwarded by the [8] [receiving] officers to the *sadar* factory, and all opium delivered at the *sadar* factory, by the cultivators, shall be there weighed and examined by the Opium Examiner or other officer duly authorized in that behalf, agreeably to rules sanctioned by [9] [Government]; and the quality and consistence of the opium, and deductions from or additions (if any) to the standard price to be made in accordance with the said rules, shall be determined by the result of such examination. Weighing and examination at *sadar* factory.

[1] These words were substituted for the words "Sub-Deputy Agents" by the Opium (Amendment) Act, 1925 (Act 27 of 1925), s. 2 and Sch., printed *post*, p. 691.

[2] These words were substituted for the words "other district officers", by *ibid*.

[3] This word was substituted for the words "of the district", by *ibid*.

[4] These words were substituted for the words "Sub-Deputy Agent", by *ibid*.

[5] These words were substituted for the words "other district officer", by *ibid*.

[6] This word was substituted for the words "the Board of Revenue", by *ibid*.

[7] These words were substituted for the words "district officer", by *ibid*.

[8] This word was substituted for the word "district", by *ibid*.

## (Secs. 14-16.)

The decision of the Examiner, or of the Agent in cases in which a reference to the Agent may be prescribed by the said rules, shall be final and conclusive, and not open to question in any Court.

Confiscation  
of adulterat-  
ed opium.

**14.** When opium delivered by a cultivator, either to a [1] [receiving] officer, or at the *sadar* factory, is suspected of being adulterated with any foreign substance it shall be immediately sealed up pending examination by the Opium Examiner, and notice of such intended examination shall be given to the cultivator.

Adjudication  
of confisca-  
tion.

If upon such examination the opium shall be found to be so adulterated, the Agent on the report of the Examiner may order that it be confiscated, and the order of the Agent shall be final and not open to question in any Court.

Weights and  
scales;

**15.** The weights and scales made use of in the *sadar* factories and at the district *kothis* shall be provided by [2] [Government].

examination  
thereof.

Every [3] [district opium officer] shall annually, before beginning to weigh the opium of the season, examine the weights and scales in use in his district and shall report the result of such examination to the Agent.

The Agent shall make a similar examination of the weights and scales of the *sadar* factory, and shall report the result to [4] [Government].

No weights or scales shall be made use of which on any such examination have not been found to be strictly accurate.

It shall be the duty of all officers who may superintend the weighing of opium to see that the opium is weighed fairly with an even beam; and the practice of taking excess weight for the purpose of turning the scale, or as an allowance for dryage and wastage, is hereby prohibited.

Adjustment  
of cultiva-  
tor's  
accounts and  
recovery of  
balance by  
distress.

**16.** The accounts of the cultivators shall be adjusted annually by the [5] [district opium officers or other officers duly authorized in this behalf] as soon after the conclusion of the weighing and examination as possible; and any balance that may remain due from any cultivator, or from any *makto* or intermediate manager, may be recovered by the [6] [adjusting officer] by distress and sale of the property of the defaulter or of his surety, in the same manner and under the same rules as the property of defaulting cultivators in estates held *khas* may be distrained and sold by the Collector for the recovery of an arrear of rent or revenue:

[1] This word was substituted for the word "district" by the Opium (Amendment) Act, 1925 (27 of 1925) s. 2 and Sch., *post*, p. 691.

[2] This word was substituted for the words "the Board of Revenue", by *ibid*.

[3] These words were substituted for the words "district officer", by *ibid*.

[4] This word was substituted for the word "the Board", by *ibid*.

[5] These words were substituted for the words "district officers", by *ibid*.

[6] These words were substituted for the words "district officer", by *ibid*.

## (Secs. 17-20.)

Provided that no warrant of distress and sale shall be issued by any <sup>[1]</sup>[adjusting officer] without the sanction of the Agent previously obtained. Sanction to issue of warrant.

**17.** Any officer of the Opium Department who shall receive any fee, gratuity, perquisite or allowance, either in money or effects, under any pretence whatsoever, from any cultivator, or from any other person employed or concerned in the provision of opium, other than the authorized allowances of his situation, shall be dismissed from his office, and, on conviction before a Magistrate, shall be liable to a fine not exceeding five hundred rupees. Penalty on officer taking bribes.

**18.** If any *zamindar* or other proprietor of land, or any farmer of land shall exact from any *raiya* on account of his poppy land any illegal cess or any higher rate of rent than he is lawfully entitled to demand, the *raiya*, or the <sup>[2]</sup>[district opium officer] or <sup>[3]</sup>[other officer duly authorized in this behalf], may institute a suit before the Collector, and recover from such proprietor or farmer the sum exacted by him in excess of his lawful demand, together with a penalty of treble the amount of such excess; and such suit shall be tried according to the rules prescribed for suits instituted before a Collector relating to arrears or exactions of rent. Exceptions by landholder from *raiya* recoverable, together with penalty, in summary suit before Collector.

**19.** Any cultivator entering into engagements for the cultivation of the poppy on account of Government who may embezzle, or otherwise illegally dispose of, any part of the opium produced shall be liable to a penalty not exceeding ten times the fixed price of the opium which he may be proved to have so disposed of, or to a fine not exceeding five hundred rupees if the amount of the said penalty be less than that sum, and the opium, if found, shall be liable to confiscation. Penalty for embezzlement of opium by cultivator.

**20.** Any person purchasing or receiving any opium from a cultivator or other person who may have entered into engagements for the cultivation of the poppy, or who may be employed in the provision of opium on account of Government, or bargaining for the purchase of opium with such cultivator or person, or in any way causing or encouraging such cultivator or person to embezzle or illegally dispose of any opium, Penalty for illegal purchase of opium from cultivator;

and any officer of the Opium Department conniving in any way at the embezzlement or illegal disposal of any opium, shall be liable to a fine not exceeding one thousand rupees, unless the opium purchased, bargained for or illegally disposed of shall exceed the weight of thirty-one seers and a quarter, in which case the fine may be increased, at a rate not exceeding thirty-two rupees per seer for all such opium in excess of that weight; and the opium, if found, shall be liable to confiscation. and for illegal connivance at embezzlement by Opium officer.

[<sup>1</sup>] These words were substituted for the words "district officer", by the Opium (Amendment) Act, 1925 (27 of 1925), s. 2 and Sch., *post*, p. 391.

[<sup>2</sup>] These words were substituted for the words "sub-deputy Agent", by *ibid.*

[<sup>3</sup>] These words were substituted for the words "other district officer on his behalf", by *ibid.*

(Secs. 21-23.)

Penalty for  
unlicensed  
cultivation

**21.** Any person who shall cultivate the poppy without license from a [¹][district opium officer] or other officer duly authorized in that behalf, and any person who shall in any way cause, encourage or promote such illegal cultivation, shall be liable to a fine not exceeding five hundred rupees, unless the quantity of land so illegally cultivated shall exceed twenty *bighas*, in which case the fine may be at the rate of twenty-five rupees per *bigha*; and the poppy plants shall be destroyed, or, if any opium have been extracted from them, it shall be seized and confiscated.

If the opium shall have been extracted and shall not be seized, the offender shall be liable to a further fine not exceeding the rate of thirty-two rupees per *bigha* of land illegally cultivated

Duty of  
landholders  
and others  
to give  
information  
of illegal  
cultivation

**22.** All proprietors, farmers, *tahsildars*, *gumashtas* and other managers of land shall give immediate information to the police or *abkari darogas*, or opium *gumashtas*, or to the Magistrates, Collectors or officers in charge of the *abkari mahdl*, or to the Agents, their deputies or [²][the district opium officers], of all poppy which may be illegally cultivated within the estates or farms held or managed by them; and every proprietor, farmer, *tahsildar*, *gumashta* or other manager of land, who shall knowingly neglect to give such information, shall be liable to the penalties for illegal cultivation prescribed in the last preceding section.

Duty of  
police and  
other officers  
to give  
information  
of illegal  
cultivation.

**23.** All police and *abkari darogas*, and opium *gumashtas*, and all Native officers of Government of whatever description, and all *chaukidars*, *paiks* and other village police-officers, shall give immediate information to the authority to which they are subordinate when it may come to their knowledge that any land has been illegally cultivated with poppy; and such authority shall transmit the information to the [¹][district opium officer] or other officer superintending the cultivation of the poppy if in a district where the poppy is cultivated on account of Government, or to the Collector or officer in charge of the *abkari mahdl* if in a district where the poppy is not so cultivated.

Every police or *abkari daroga*, opium *gumashta*, Native officer, *chaukidar* or other police-officer as aforesaid, who shall neglect to give such information, or shall in any respect connive at the illicit cultivation of the poppy, shall be liable to a fine not exceeding one thousand rupees if the offender be an officer of the Opium Department, or in any other case to a fine not exceeding five hundred rupees.

[¹] These words were substituted for the words "sub-deputy Agent", by the Opium (Amendment) Act, 1925 (27 of 1925), s. 2 and Sch., *post*, p. 691.

[²] These words were substituted for the words "sub-deputies", by *ibid.*

(Secs. 24-28.)

**24.** Whenever a police or *abkari daroga* or opium *gumdshta* shall receive intelligence of any land within his jurisdiction having been illegally cultivated with poppy, he shall immediately proceed to the spot, and, if the information be correct, shall attach the crop so illegally cultivated, and report the same without delay to the authority to which he may be subordinate.

Police or  
*abkari*  
*daroga* how  
to proceed  
in case of  
illegal  
cultivation.

He shall at the same time take security from the cultivator of the said land for his appearance before the Magistrate; and, in the event of such cultivator not giving the required security, he shall send him in custody to the Magistrate.

**25.** Proprietors, farmers, *tahsildars*, *gumdshtas* and other managers of land shall be at liberty to attach any poppy grown in opposition to the provisions of this Act in any estate or farm held or managed by them, and shall immediately report such attachment to the nearest police or *abkari daroga* or opium *gumdshta*, who shall thereupon proceed in conformity with the rules contained in the last preceding section.

Landholders,  
etc., may  
attach in  
case of  
illegal  
cultivation.

**26.** Except as otherwise herein provided, all fines, penalties and confiscations prescribed by this Act shall be adjudged by the Magistrate on the information of the Deputy Agent or [1] [district opium officer] in districts in which the poppy is cultivated on account of Government, and in other districts on the information of the Collector or officer in charge of the *abkari mahal*:

Adjudication  
of penalties.

Provided that no information of an offence against this Act shall be admitted unless it be preferred within the period of one year after the commission of the offence to which the information refers.

**27.** When any person is sentenced to pay any fine or penalty under this Act, such person, in default of payment of the same, may be imprisoned by order of the Magistrate for any time not exceeding six months or until the fine is sooner paid.

Imprison-  
ment in  
default of  
payment of  
fine.

**28.** Whenever any person shall be convicted of an offence against this Act after having been previously convicted of a like offence, he shall be liable, in addition to the penalty attached to such offence, to imprisonment for a period not exceeding six months; and a like punishment of imprisonment not exceeding six months shall be incurred, in addition to the punishment, which may be inflicted for a first offence, upon every subsequent conviction after the second.

Punishment  
for repetition  
of offences.

[1] These words were substituted for the words "sub-deputy Agent", by the Opium (Amendment) Act, 1925 (27 of 1925), s. 2 and Sch., *post*, p. 691.

(Secs. 29-32.)

Place of  
imprisonment  
under section  
28.

**29.** Every person who shall be imprisoned under the last preceding section, or on account of the non-payment of any fine or penalty prescribed by this Act, unless such person be an officer of Government or a village police-officer convicted of an offence under section 17, 20 or 23, shall be imprisoned in the civil jail.

Disposal of  
fines and  
forfeitures.

**30.** One-half of all fines and penalties levied from persons convicted of offences under sections 19, 20 and 21 of this Act, together with a reward of one rupee eight annas for each seer of opium confiscated and declared by the Civil Surgeon to be fit for use, shall, upon adjudication of the case, be awarded to the officer or officers who apprehended the offender, and the other half of such fines and forfeitures, together with a reward of one rupee eight annas for each seer of opium confiscated as aforesaid, shall be given to the informer.

If in any case the fine or penalty is not realized, the <sup>[1]</sup> [Opium Agent] may grant such reasonable reward, not exceeding the sum of two hundred rupees, as may seem to <sup>[2]</sup> [him] fit.

Governor  
General may  
allow free  
cultivation  
of poppy and  
manufacture  
of opium in  
any district.

**31.** The Governor General of India in Council may authorize, by an order of Government, the cultivation of the poppy and the manufacture of opium in any district or districts without license from a <sup>[3]</sup> [district opium officer] or other officer of Government; and, when such order has been published, all the provisions of this Act shall cease to have effect in such district or districts:

Power to  
prescribe  
rules for  
delivery to  
Government  
officers.

Provided always that the Government may prescribe rules for the delivery of the opium so produced to officers of Government appointed to receive it; and, when such rules have been passed, any cultivator or other person engaged in the cultivation of the poppy and manufacture of opium who shall dispose of any opium otherwise than is allowed by such rules, and any person who shall purchase or receive any such opium in contravention of the said rules, shall be subject to the penalties prescribed in section 19 of this Act; and such penalties may be adjudged by a Magistrate on the information of any officer of Government or of any other person.

Meaning of  
" Govern-  
ment."

<sup>[4]</sup>[**32.** In this Act, except in section 23, where the word occurs for the first time, and in section 29, " Government " means the " Government of India."]

<sup>[1]</sup> These words were substituted for the words " Board of Revenue ", by the Opium (Amendment) Act, 1925 (27 of 1925), s. 2 and Sch., *post*, p. 691.

<sup>[2]</sup> This word was substituted for the word " them ", by *ibid.*

<sup>[3]</sup> These words were substituted for the words " Sub-deputy Opium Agent ", by *ibid.*

<sup>[4]</sup> This section was added by *ibid.*

[THE BENGAL ALLUVIAL LAND SETTLEMENT ACT, 1858.][<sup>1</sup>]

(24th August, 1858.)

**An Act to make further provision for the settlement of land gained by alluvion in the Presidency of Fort William in Bengal.**[<sup>2</sup>]

Whereas for the removal of doubts respecting the course proper to be followed in the settlement of land added by alluvial accession to estates paying revenue to Government, it is expedient to lay down certain rules to be observed in the settlement of such land ; It is enacted as follows :—

**1.** When land added by alluvial accession to an estate paying revenue to Government becomes liable to assessment, if it be so agreed on between the Revenue-authorities and the proprietor or proprietors, the revenue assessed upon the alluvial land may be added to the *jama* of the original estate ; and in such case a new engagement shall be executed for the payment of the aggregate amount, and that amount shall be substituted in the Collector's rent-roll for the former *jama* of the original estate.

Addition of revenue assessed upon alluvial land to *jama* of original estate.

If the proprietor or proprietors object to such an arrangement, or if the Revenue-authorities are of opinion that a settlement of the alluvial land cannot properly be made for the same term as the existing settlement of the original estate, the alluvial land shall be assessed and settled as a separate estate with a separate *jama*, and shall thenceforward be regarded and treated, as in all respects separate from and independent of the original estate, whether the separate settlement be made with the proprietor or proprietors or the land be let in farm in

When separate settlement to be made

[1] **SHORT TITLE.**—This short title was given by the Amending Act, 1903 (1 of 1903), Sch. I—see *post*, p. 625.

**LOCAL EXTENT.**—This Act was passed for the whole of the former Province of Bengal—see the title.

It has been declared by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1873-86, Ed. 1928, p. 48), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the districts of Hazaribagh, Ranchi, Palamau and Manbhum, and Pargana Dhalbhum, and the Kolhan in the district of Singhbhum in the Chota Nagpur Division—see Vol. IV, Part III.

It is in force in the Sonthal Parganas—see Vol. IV, Part IV ; but its application is barred in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 768.

[2] This includes the present Province of Bihar and Orissa except the district of Sambalpur.



(Secs. 2-3.)

consequence of the refusal of the proprietor or proprietors to accept the terms of settlement.

The separate settlement may be permanent, if the settlement of the original estate is permanent.

Rights of  
under-  
tenants in  
alluvial  
land.

2. Nothing contained in the preceding section shall affect the rights of any under-tenant in any alluvial land under the provisions of clause 1, section 4, Regulation 11, 1825.[<sup>1</sup>]

It shall be the duty of all officers making settlements of such land, whether the land be settled separately or incorporated with the original estate, to ascertain and record all such rights according to the rules prescribed in Regulation 7, 1822; [<sup>2</sup>] and to determine whether any and what additional rent shall be payable in respect of the alluvial land by the person or persons entitled to any under-tenure in the original estate.

The provisions of the said Regulation [<sup>1</sup>], so far as the same may be applicable, are hereby declared to extend to all settlements made under this Act.

3. (*Separate settlements heretofore made; saving of rights.*) Rep. by the Amending Act, 1903 (1 of 1903).

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[1] The Bengal Alluvion and Diluvion Regulation, 1825. It is printed *ante*, p. 263.

[2] The Bengal Land-revenue Settlement Regulation, 1822. It is printed *ante*, p. 202.

ACT 5 OF 1859

[THE BENGAL GHATWALI LANDS ACT, 1859.][<sup>1</sup>]

(4th March, 1859.)

An Act empower the holders of *Ghatwali* lands in the district of Birbhoom to grant leases extending beyond the period of their own possession.

Whereas it has been held that the *ghatwals* of the district of Birbhoom who pay the revenue of their lands directly to Government under the provisions of Regulation 29, 1814[<sup>2</sup>] of the Bengal Code have not the power of alienating their lands;

And whereas, for the development of the mineral resources of the country in which the said *ghatwali* lands are situate, and for the improvement of the said lands, it is expedient that the power of granting leases for periods not limited by the term of their own possession should in certain cases be extended to the possessors of such lands;

It is enacted as follows:—

1. *Ghatwals* holding lands in the district of Birbhoom under the provisions of the aforesaid Regulation shall have the same power of granting leases for any period which they may deem most conducive to the improvement of their tenures as is allowed by law to the proprietors of other lands:

Right of *ghatwals* of Birbhoom to grant leases.

Provided that no lease of *ghatwali* lands for any period extending beyond the lifetime or incumbency of the grantor of the lease shall be valid and binding on the successors of the grantor, unless the same shall be granted for the working of mines or for the clearing of jungle, or for the erection of dwelling-houses or manufactories, or for tanks, canals and similar works, and shall be approved by the Commissioner of the Division, such approval being certified by an endorsement on the lease under the signature of the Commissioner.

Proviso.

2. If any of the said *ghatwali* lands be at any time under the superintendence of the Court of Wards, or otherwise subject to the

Court of Wards and Revenue

[1] SHORT TITLE.—This short title was given by the Amending Act, 1903 (1 of 1903), Sch. I—see *post*, p. 625.

LOCAL EXTENT.—This Act was passed only for the district of Birbhoom—see the title and s. 1.

It has since been declared to be in force in the Sonthal Parganas—see Vol. IV, Part IV.

[2] The Bengal Ghatwali Lands Regulation, 1814. It is printed *ante*, p. 123.

*(Sec. 2.)*

authorities  
have like  
power in  
certain  
cases.

direct control of the officers of Government, it shall be lawful for the Court of Wards or the Commissioner to grant leases for any such purpose as aforesaid; and every lease so granted shall be valid and binding on all future possessors of the said lands, anything in the existing law to the contrary notwithstanding.

ACT 11 OF 1859.

(THE BENGAL LAND-REVENUE SALES ACT, 1859.)

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ACT 11 OF 1859.

[THE BENGAL LAND-REVENUE SALES ACT, 1859.][<sup>1</sup>]

(4th May, 1859.)

**An Act to improve the law relating to sales of land for arrears of revenue in the Lower Provinces under the Bengal Presidency.**[<sup>2</sup>]

Whereas it is expedient to discontinue the practice of obtaining the Preamble  
previous sanction of the Board of Revenue to sales of estates for arrears  
of revenue, or other demands of Government, in the Province of Cuttack ;

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[1] **SHORT TITLE.**—This short title was given by the Amending Act, 1903 (1 of 1903), Sch. I—*see post*, p. 625.

**LOCAL EXTENT.**—This Act was passed for the whole of the former Province of Bengal—*see* the title and the concluding paragraph of the preamble, *post*, p. 350 ; but was declared by s. 62 (*post*, p. 370) to extend only to such parts of that Province as are subject to the general Regulations.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (in General Acts, 1875-86, Ed. 1928, p. 48), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been extended, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 5, to the districts of Hazaribagh, Ranchi, Palamau and Manbhum, and Pargana Dhalbhum and the Kolhan, in the district of Singhbhum, in the Chota Nagpur Division—*see* Vol. IV, Part III.

The Act is in force in the Sonthal Parganas—*see* Vol. IV, Part IV : but its application is barred in the district of Angul, by the Angul Laws Regulation, 1913 (3 of 1913), s. 3(2), *post*, p. 768.

**ANNOTATED REPRINT.**—This Act is reprinted, with notes of cases decided by the High Court and of important rulings of the Board of Revenue, in the Bihar and Orissa Sale Law Manual, 1923, pp. 16 to 91.

**AMENDING ACTS.**—The Bengal Land-revenue Sales (Amendment) Act, 1862 (Ben. Act 3 of 1862), and the Bengal Land-revenue Sales Act, 1868 (Ben. Act 7 of 1868), are to be read and taken as part of this Act—*see* s. 4 of the former Act and s. 30 of the latter Act, in Vol. II of this Code.

**FURTHER ENACTMENTS.**—Sales for arrears of revenue are not liable to annulment by the Civil Courts on the ground—

(a) that one or more of the sharers may not have obtained possession of his or their interests in the property, or

(b) that the proceeds of the sales have materially exceeded the amount of the arrears.

The Board of Revenue has full discretion in ordering sales in such cases, subject to the control of the Government—*see* the Bengal Land-revenue Sales Regulation, 1812 (5 of 1812), ss. 24, 25, *ante*, p. 115.

As to the sale of *ghatwali* tenures, *see* the Bengal Ghatwali Lands Regulation, 1814 (29 of 1814), s. 5, *ante*, p. 124.

For saving of liability of tenures to cancellation on sale of estate for arrears of land-revenue, *see* the Bengal Patni Taluks Regulation, 1819 (8 of 1819), s. 2, proviso, *ante*, p. 180.

The Bengal Tenancy Act, 1885, does not affect any enactment relating to the avoidance of tenancies and incumbrances by a sale for arrears of the Government revenue—*see* s. 195 (c) of that Act, *post*, p. 504.

As to the recovery, beyond the district in which they accrued, of arrears of land-revenue and of sums recoverable as arrears of land-revenue, *see* the Revenue Recovery Act, 1890 (1 of 1890), in General Acts, 1887-97, Ed. 1928, p. 76.

## (Secs. 1-2.)

and whereas it is just that a person having a lien upon an estate, and paying the money necessary to protect it from sale for arrears of revenue, should be reasonably secured :

and whereas it is expedient to afford sharers in estates, who duly pay their shares of the *sadar jama* of their estates, easy means of protecting their shares from sale by reason of the default of their co-sharers ;

and whereas it is expedient to afford landholders, particularly absentees, facilities in guarding against the accidental sale of their estates for arrears of revenue by reason of the neglect or fraud of their agents ;

and whereas it is expedient to provide for the voluntary registration of dependent *taluks* existing at the time of settlement ;

and whereas it is expedient to protect the holders of registered under-tenures created since the settlement, and not resumable by the grantors or their representatives, from loss by the avoidance of their tenures on the occasion of a sale of the superior estate for arrears of public revenue, when the arrears can be realized by such sale, and to give absolute security to such tenures by special registry, when shown to be held at rents sufficient for the security of the revenue ;

and it is therefore proper, for the above and other purposes, to improve the law relating to sales of land for arrears of revenue in the province[s] of [Bengal] Bihar and Orissa :

It is enacted as follows :

1. (*Laws repealed.*) *Rep. by the Repealing Act, 1870 (14 of 1870).*

" Arrear of  
revenue "  
defined.

2. If the whole or a portion of a *kist* or instalment of any month of the era according to which the settlement and *kistbandi* of any *mahal* have been regulated be unpaid on the first of the following month of such era, the sum so remaining unpaid shall be considered an arrear of revenue.

As to the protection from sale of estates and shares of estates which are under the charge of the Court of Wards, *see* the Court of Wards Act, 1879 (Ben. Act 9 of 1879), Part III, in Vol. II of this Code.

For special procedure as to the sale or attachment of a settled estate for an arrear of land-revenue, or for any other arrear which is recoverable in the same manner as an arrear of land-revenue, *see* the Bengal Settled Estates Act, 1904 (Ben. Act 3 of 1904), ss. 33, 34, in Vol. II of this Code.

Certain instruments executed under the Ancient Monuments Preservation Act, 1904 (7 of 1904), are binding on purchasers at sales for arrears of land-revenue or other public demands, *see* s. 8 of that Act, in General Acts, 1899-1909, Ed. 1928, p. 281.

THE CERTIFICATE PROCEDURE.—As to the recovery, under the certificate procedure, of arrears of revenue not realized by sale under the present Act, and of arrears of revenue due from farmers, *see* the Bihar and Orissa Public Demands Recovery Act, 1914 (B. & O. Act 4 of 1914), in Vol. III of this Code.

[2] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

(Secs. 3-5.)

3. Upon the promulgation of this Act, the Board of Revenue<sup>[1]</sup> at Calcutta<sup>[2]</sup> shall determine upon what dates all arrears of revenue and all demands which, by the Regulations and Acts in force, are directed to be realised in the same manner as arrears of revenue, shall be paid up in each district under their jurisdiction, in default of which payment the estates<sup>[3]</sup> in arrear in those districts, except as hereinafter provided shall be sold at public auction to the highest bidder.

And the said Board<sup>[1]</sup> shall give notice of the dates so fixed in the official Gazette, and shall direct corresponding publication to be made, as far as regards each district in the language of that district, in the office of the Collector<sup>[4]</sup> or other officer duly authorized to hold sales under this Act, in the Courts of the Judge, Magistrate (or Joint Magistrate, as the case may be), and *Munsifs*, and at every *thana*-station of that district;

and the dates so fixed shall not be changed except by the said Board<sup>[1]</sup> by advertisement and notification<sup>[5]</sup> in the manner above described, to be issued at least three months before the close of the official year preceding that in which the new date is, or dates are, to take effect.

4. (*In Sylhet, personal property of defaulters may in the first instance be distrained and sold.*) Rep. by the Amending Act, 1891 (12 of 1891).

5. Provided always that no estate, and no share or interest in any estate, shall be sold for the recovery of arrears or demands of the descriptions mentioned below, otherwise than after a notification, in the language of the district, specifying the nature and amount of the arrear or demand, and the latest date on which payment thereof shall be received, shall have been affixed, for a period of not less than fifteen clear days preceding the date fixed for payment according to section 3 of this Act,

in the office of the Collector, or other officer duly authorized to hold sales under this Act,

[1] As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), printed in Vol. III of this Code.

[2] The reference should now be construed as having been made to the Board of Revenue, Bihar and Orissa, at Patna.

[3] As to the sale of tenures which are not estates, see the Bengal Land-revenue Sales Act, 1868 (Ben. Act 7 of 1868), ss. 11 to 14, in Vol. II of this Code.

[4] As to the Collectorate in which estates are, for the purposes of this Act, to be deemed to be included, see the Bengal Land-revenue Sales Act, 1868 (Ben. Act 7 of 1868), s. 10, in Vol. II of this Code.

[5] For a notification issued under s. 3, see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.



## (Sec. 6.)

in the Court of the Judge within whose jurisdiction the land advertised lies, and

in the *Munsif's* Court and police-*thana* of the division in which the estate or share of an estate to which the notification relates is situated, or, if the estate or share of an estate be situated within the jurisdiction of more than one *Munsif's* Court or police-*thana*, in some one or more of such Courts or *thanas*, and

also at the *cutcherry* of the *malquzar* or owner of the estate or share of an estate, or at some conspicuous place upon the estate or share of an estate, the same to be certified by the peon or other person employed for the purpose :—

*First*.—Arrears other than those of the current year, or of the year immediately preceding.

*Secondly*.—Arrears due on account of estates other than that to be sold.

*Thirdly*.—Arrears of estates under attachment by order of any judicial authority, or managed by the Collector in accordance with such order.

*Fourthly*.—Arrears due on account of *takavi*, *pulbandi* or other demands not being land-revenue, but recoverable by the same process as arrears of land-revenue.

Issue of  
notifications  
of sale

6. The Collector or other officer duly authorized to hold sales under this Act shall, as soon as possible after the latest day of payment fixed in the manner prescribed in section 3 of this Act, issue notifications,<sup>[1]</sup> in the language of the district, to be affixed in his own office and in the Court of the Judge of the district, specifying the estates or shares of estates which will be sold as aforesaid, and the day on which the sale of the same will commence which date shall not be less than<sup>[2]</sup> [thirty] \* \* \*<sup>[3]</sup> clear days from the date of affixing the notification in the office of the Collector or other officer as aforesaid.

And, if the Government revenue of any estate or share of an estate to be sold exceed the sum of five hundred rupees, a notification of the sale of such estate or share of an estate shall be published in the official Gazette.

[1] As to service of notices upon proprietors before proceeding under this Act to realize arrears, see the Bengal Land-revenue Sales Act, 1868 (Ben. Act 7 of 1868), s. 6, in Vol. II of this Code.

For mode of serving notices under the present Act, see *ibid*, s. 5, in Vol. II of this Code.

[2] The word "thirty," in s. 6 was substituted for the word "fifteen" by the Bengal Land-revenue Sales Act, 1868 (Ben. Act 7 of 1868), s. 3.

[3] The words "or more than thirty," which were repealed by *ibid*, are omitted:

(Secs. 7-9.)

Except as hereinafter provided, all estates or shares of estates so specified shall, on the day notified for sale, or on the day or days following, be put up to public auction by and in the presence of the Collector or other officer as aforesaid, and shall be sold to the highest bidder.

And no payment or tender of payment, made after sunset of the said latest day of payment, shall bar or interfere with the sale, either at the time of sale or after its conclusion. Tender after latest day of payment not to stop sale.

7. Whenever an estate or share of an estate is notified for sale as provided by section 6 of this Act, the Collector or other officer as aforesaid shall affix a proclamation, in the language of the district, Notice to raiyats, etc.

in his own office, and as soon thereafter as may be in the *Munsif's* Courts and police-*thanas* within which the estate or share of an estate, or any part of it, is situated, and also at the *cutcherry* of the *malguzar* or the owner of the estate or share of an estate, or at some conspicuous place upon the estate or share of an estate,[1]

forbidding the *raiya*s and under-tenants to pay to the defaulting proprietor any rent which has fallen due after the day fixed for the last day of payment, on pain of not being entitled to credit in their accounts with the purchaser for any sums so paid.

8. No claim to abatement or remission of revenue, unless the same shall have been allowed by the authority of Government, and no private demand or cause of action whatever, held or supposed to be held by any defaulter against Government, shall bar or render void or voidable a sale under this Act; nor shall the plea that money belonging to the defaulter, and sufficient to pay the arrear of revenue due, was in the Collector's hand bar or render void or voidable a sale under this Act, unless such money stand in the defaulter's name alone and without dispute, and unless, after application in due time made by the defaulter, or after the written agreement provided for in section 15 of this Act, the Collector shall have neglected, or refused on insufficient grounds, to transfer it in payment of the arrear of revenue due. Claims of defaulter against Government not to invalidate sale.

9. The Collector or other officer as aforesaid shall, at any time before sunset of the latest day of payment determined according to section 3 of this Act, receive as a deposit from any person not being a proprietor of the estate or share of an estate in arrear, the amount of the arrear of revenue due to be credited in payment of the arrear at sunset as aforesaid, unless before that time the arrear shall have been paid by a defaulting proprietor of the estate. Deposits receivable from persons not proprietors.

[1] Also at the sub-divisional *cutcherry* within the jurisdiction of which the estate is situate—see the Bengal Land-revenue Sales Act, 1868 (Ben. Act 7 of 1868), s. 7, in Vol. II of this Code.

## (Sec. 10.)

And in case the person so depositing, whose money shall have been credited in the manner aforesaid, shall be a party in a suit pending before a Court of Justice for the possession of the estate or share from which the arrear is due or any part thereof, it shall be competent to the said Court to order the said party to be put into temporary possession of the said estate or share, or part thereof, subject to the rules in force for taking security in the cases of parties in civil suits.

And if the person so depositing, whose money shall have been credited as aforesaid, shall prove before a competent Civil Court that the deposit was made in order to protect an interest of the said person, which would have been endangered or damaged by the sale, or which he believed in good faith would have been endangered or damaged by the sale, he shall be entitled to recover the amount of the deposit, with or without interest as the Court may determine, from the defaulting proprietor.

And if the party so depositing, whose money shall have been credited as aforesaid, shall prove before such a Court that the deposit was necessary in order to protect any lien he had on the estate or share or part thereof, the amount so credited shall be added to the amount of the original lien.

Separation  
of shares  
held in  
common,  
by opening  
separate  
account.

[1] 10. Where a recorded sharer of a joint estate, held in common tenancy, desires to pay his share of the Government revenue separately, he may submit to the Collector a written application to that effect.

The application must contain a specification of the share held in the estate by the applicant.

[1] For fees payable on applications made under s. 10 or s. 11, see the Bengal Land Registration Act, 1876 (Ben. Act 7 of 1876), s. 70, in Vol. II of this Code.

A separate account may be opened under s. 10 or s. 11 in respect of such a share only as corresponds with the character and extent of interest in respect of which the applicant is recorded as proprietor or manager under the Land Registration Act, 1876 (Ben. Act 7 of 1876)—see s. 69 of that Act, in Vol. II of this Code.

As to the opening of a separate account and the application of ss. 10, 12, 13 and 14 of the present Act, see also ss. 70 and 71 of the Act of 1876, in Vol. II of this Code.

As to the closing of separate accounts opened under s. 10 or s. 11 of the present Act and the opening of fresh accounts thereunder, see ss. 72 to 74A of the Act of 1876, in Vol. II of this Code.

As to the protection from sale of shares of estates for which a separate account has been opened under s. 10 or s. 11, and which are under the charge of the Court of Wards, see the Court of Wards Act, 1879 (Ben. Act 9 of 1879), Pt. III, in Vol. II of this Code.

As to the sale for arrears of land-revenue of a share of an estate which is under partition, see the Estates Partition Act, 1897 (Ben. Act 5 of 1897), s. 16, in Vol. II of this Code.

As to separate liability for payment of road-cess and public work-cess, when a separate account has been opened under the present Act, see the Cess Act, 1880 (Ben. Act 9 of 1880), s. 44, in Vol. II of this Code.

As to separate liability for payment of sums due under the Bengal Embankment Act, 1882 (Ben. Act 2 of 1882), when a separate account has been opened under the present Act, see ss. 71 and 72 of the Act of 1882, in Vol. II of this Code.

(Secs 11-12)

The Collector shall then cause to be published in his own office, in the Courts of the Judge Magistrate (or Joint-Magistrate as the case may be), and *Munsifs*, and in the police-*thanas* in whose jurisdiction the estate or any part thereof is situated, as well as on some conspicuous part of the estate itself a copy of the application made to him.

If within six weeks from the date of the publication of these notices, no objection is made by any other recorded sharer, the Collector shall open a separate account with the applicant and shall credit separately to his share all payments made by him on account of it. The date on which the Collector records his sanction to the opening of a separate account shall be held to be that from which the separate liabilities of the share of the applicant commence.

[<sup>1</sup>]11. When a recorded sharer of a joint-estate, whose share consists of a specific portion of the land of the estate, desires to pay his share of the Government revenue separately, he may submit to the Collector a written application to that effect. The application must contain a specification of the land comprised in his share, and of the boundaries and extent thereof, together with a statement of the amount of *sadar jama* heretofore paid on account of it.

Separation of the estate consisting of specific portions of land by opening separate accounts

On the receipt of the application the Collector shall cause it to be published in the manner prescribed for publication of notice in the last preceding section.

In the event of no objection being urged by any recorded co-sharer within six weeks from the time of publication, the Collector shall open a separate account with the applicant and shall credit separately to his share all payments made by him on account of it.

The date on which the Collector records his sanction to the opening of a separate account shall be held to be that from which the separate liabilities of the share of the applicant commence

[<sup>2</sup>]12. If any recorded proprietor of the estate, whether the same be held in common tenancy or otherwise, object that the applicant has no right to the share claimed by him, or that his interest in the estate is less or other than that claimed by him, or if the application be in respect of a specific portion of the land of an estate, that the amount of *sadar jama* stated by the applicant to have been heretofore paid on account of such portion of land is not the amount which has been recognized by the other sharers as the *jama* thereof, the Collector shall refer the parties to the Civil Court and shall suspend proceedings until the question at issue is judicially determined.

If objection be made, parties to be referred to Civil Court.

[1] See footnotes to section 10, *ante*, p. 354.

[2] As to the extended application of s. 12, see the third footnote to s. 10, *ante*, p. 354.

## (Secs. 13-15.)

Sale of  
separate  
shares.

[<sup>1</sup>]13. Whenever the Collector shall have ordered a separate account or accounts to be kept for one or more shares, if the estate shall become liable to sale for arrears of revenue, the Collector or other officer as aforesaid in the first place shall put up to sale only that share or those shares of the estate from which, according to the separate accounts, an arrear of revenue may be due.

In all such cases notice of the intention of excluding the share or shares from which no arrear is due shall be given in the advertisement of sale prescribed in section 6 of this Act. The share or shares sold, together with the share or shares excluded from the sale, shall continue to constitute one integral estate, the share or shares sold being charged with the separate portion, or the aggregate of the several separate portions, of *jama* assigned thereto.

Entire  
estate  
may be  
sold under  
certain  
conditions.

[<sup>1</sup>]14. If in any case of a sale held according to the provisions of the last preceding section the highest offer for the share exposed to sale shall not equal the amount of arrear due thereupon to the date of sale, the Collector or other officer as aforesaid shall stop the sale, and shall declare that the entire estate will be put up to sale for arrears of revenue at a future date, unless the other recorded sharer or sharers, or one or more of them, shall within ten days purchase the share in arrear by paying to Government the whole arrear due from such share.

If such purchase be completed, the Collector or other officer as aforesaid shall give such certificate and delivery of possession as are provided for in sections 28 and 29 of this Act to the purchaser or purchasers, who shall have the same rights as if the share had been purchased by him or them at the sale.

If no such purchase be made within ten days as aforesaid, the entire estate shall be sold, after notification for such period and publication in such manner as is prescribed in section 6 of this Act.

Deposit for  
protection  
of estate  
from sale.

[<sup>2</sup>]15. If any recorded proprietor or co-partner of an estate shall deposit with the Collector money, or Government securities endorsed and made payable to the order of the Collector and shall sign an agreement pledging the same to Government by way of security for the *jama* of the entire estate, and authorizing the Collector to apply to the payment of any arrear of revenue that may become due from that estate the whole or any portion of the said money or securities that may be necessary for that purpose, then in the case of any arrear of revenue due from the said estate not being paid before sunset of the latest day of payment fixed under section 3 of this Act the Collector shall apply to the

[1] As to the extended application of ss. 13 and 14, see the third footnote to s. 10, *ante*, p. 354.

[2] For fees payable on applications under s. 15, see the Bengal Land-revenue Sales (Amendment) Act, 1862 (Ben. Act 3 of 1862), s. 3, in Vol. II of this Code.

(Secs. 16-18.)

payment of such arrear the said money or securities, or such part thereof or of any interest due on the said securities, as may be necessary; and for this purpose the Collector shall first apply any money that may be in his hands and any interest that may be due upon such securities, and may then sell and transfer the securities for any balance that may remain.

And so long as any money or securities as aforesaid, sufficient to cover any arrear that may fall due, shall remain and be available as aforesaid, the estate for the protection of which the said deposit was made shall be exempted from sale for arrears of revenue.

All moneys and securities so deposited shall be exempt from attachment otherwise than in execution of a decree of a Civil Court.

[<sup>1</sup>]**16.** It shall be competent to the person making a deposit under the provision of the last preceding section, or his representative or assignee, at any time, to withdraw the deposit and to revoke the pledge of the same. Withdrawal of deposit.

**17.** \* \* \* \* \* [<sup>2</sup>] no estate held under attachment by the Revenue-authorities otherwise than by order of a judicial authority shall be liable to sale for arrears accruing whilst it was so held under attachment. Estate under attachment.

And no estate held under attachment or managed by a Revenue officer, in pursuance of an order of a judicial authority, shall be liable to sale for the recovery of arrears of revenue accruing during the period of such attachment or management, until after the end of the year in which such arrears accrued.

**18.** It shall be competent to the Collector or other officer as aforesaid, at any time before the sale of an estate or share of an estate shall have commenced, to exempt such estate or share from sale; and in like manner it shall be competent to the Commissioner of Revenue, at any time before the sale of an estate or share of an estate shall have commenced, to exempt such estate or share from sale, by a special order to the Collector or other officer as aforesaid to that effect in each case; and Power to exempt sale.

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[<sup>1</sup>] For fees payable on applications under s. 16, see the Bengal Land-revenue Sales (Amendment) Act, 1862 (Ben. Act 3 of 1862), s. 3, in Vol. II of this Code.

[<sup>2</sup>] The words and figures "No estate shall be liable to sale for the recovery of arrears which have accrued during the period of its being under the management of the Court of Wards; and no estate, the sole property of a minor or minors and descended to him or them by the regular course of inheritance duly notified to the Collector for the information of the Court of Wards, but of which the Court of Wards has not assumed the management under Regulation 6, 1822, shall be sold for arrears of revenue accruing subsequently to his or their succession to the same until the minor or minors, or one of them, shall have attained the full age of eighteen years, and," which were repealed by the Bengal Court of Wards (Amendment) Act, 1881 (Ben. Act 3 of 1881), are omitted.

(Secs. 19-22.)

no such sale shall be legal if held after the receipt of such order of exemption :

Proviso.

Provided, however, [1] that the Collector or other officer as aforesaid, or the Commissioner, shall duly record in a proceeding the reason for granting such exemption : and provided also that an order for exemption so issued by the Commissioner shall not affect the legality of a sale which may have taken place before the receipt by the Collector or other officer as aforesaid of the order of exemption.

Sales where  
to be made.

**19.** Sales shall ordinarily be made by the Collector or other officer as aforesaid in the Land-revenue office at the *sadar* station of the district :

Provided, however, that it shall be competent to the [Commissioner] [2] to prescribe a place for holding sales other than such office whenever [he] [2] shall consider it beneficial to the parties concerned.

Adjournment  
of sales.

**20.** In case the Collector or other officer as aforesaid shall be unable, from sickness, from the occurrence of a holiday or from any other cause, to commence the sale on the day of sale fixed as aforesaid, or if, having commenced it, he be unable, from any cause, to complete it, he shall be competent to adjourn it to the next day following, not being Sunday or other close holiday, recording his reasons for such adjournment, forwarding a copy of such record to the Commissioner of Revenue and announcing the adjournment by written proclamation stuck up in his *cutcherry*; and so on, from day to day, until he shall be able to commence upon or to complete the sale; but with the exception of adjournments so made, recorded and reported, each sale shall invariably be made on the day of sale fixed in the manner aforesaid.

Order of  
selling.

**21.** On the day of sale fixed according to section 6 of this Act, sales shall proceed in regular order; the estate to be sold bearing the lowest number on the *tauji* or register in use in the Collector's office of the district being put up first, and so on, in regular sequence; and it shall not be lawful for the Collector or other officer as aforesaid to put up any estate out of its regular order by number, except where it may be necessary to do so in default of deposit, as provided in section 22 of this Act.

Deposit on  
account of  
purchase-  
money.

**22.** The party who shall be declared the purchaser of an estate or share of an estate at any such public sale as aforesaid shall be required to deposit immediately, or as soon after the conclusion of the sale of the estate or share as the Collector or other officer as aforesaid may think

[1] Formal words which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[2] The words "Commissioner" and "he" were substituted for the words "Board of Revenue" and "they" respectively by the Decentralization Act, 1914 (4 of 1914), s. 2, Schedule, Part I, *post*, p. 651.

(Secs 23-24.)

necessary either in cash Bank of Bengal \* [1] post-bills, [2] [currency notes] or Government - securities, to be valued at the market rate of the day duly tendered, twenty-five *per cent* on the amount of his bid and in default of such deposit the estate or share shall forthwith be put up again and sold

**23.** The full amount of purchase-money shall be made good by the purchaser before sunset of the thirtieth day from that on which the sale of the estate or share of an estate bought by him took place, reckoning that day as one of the thirty; or if the thirtieth day be a Sunday or other close holiday, then on the first office day after the thirtieth; and, in default of payment within the prescribed period as aforesaid, the deposit shall be forfeited to Government, the estate or share shall be re-sold, and the defaulting purchaser shall forfeit all claim to the estate or share, or to any part of the sum for which it may subsequently be sold.

And, in the event of the proceeds of the sale which may be eventually consummated being less than the price bid by the defaulting bidder aforesaid, the difference shall be leviable from him by any process authorized for realizing an arrear of public revenue, and such difference shall be taken and considered to be a part of the purchase-money, and shall be dealt with in the manner hereinafter prescribed for the disposal thereof

**24.** When default is made in the payment of purchase-money, a notification of the intended re-sale shall be published for the period and in the manner prescribed in section 6 of this Act, but such notification shall not be published until the expiration of three clear days after the day on which the default shall have occurred; and if the payment or tender of payment of arrear on account of which the estate or share was first sold, and of any arrear which may have subsequently become due, shall be made by or on behalf of the proprietor of the estate or share before sunset of the third day, the issue of the notification of re-sale shall be stayed. The rules contained in the last preceding section shall be applicable to every such re-sale:

Provided, that, if default of payment of purchase-money shall occur more than once, the amount to be recovered from the defaulting bidders shall be the difference between the highest bid and the proceeds of the sale eventually consummated, which amount may be levied in manner aforesaid from any of the defaulting bidders to the extent of the amount by which his bid exceeds the amount realized.

[1] The words "notes or", which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[2] The words "currency notes," in s. 22, were inserted by *ibid* Sch. II—see *post*, p. 638.



(Secs. 25-29.)

**25.** (*Appeals*) *Rep. by the Bengal Land-revenue Sales Act, 1868* (Ben. Act 7 of 1868), s. 25.

Annulment  
of sale in  
special cases.

**26.** It shall be competent to the Commissioner of Revenue, on the ground of hardship or injustice, to suspend the passing of final orders in any case of appeal from a sale, and to represent the case to the Board of Revenue<sup>[1]</sup>, who <sup>[2]</sup> [\* \* \*] may annul the sale and cause the estate or share of an estate to be restored to the proprietor on such conditions as may appear equitable and proper.

Sales when  
final.

**27.** All sales of which the purchase-money has been paid up as prescribed in section 23 of this Act, and against which no appeal<sup>[3]</sup> shall have been preferred, shall be final and conclusive at noon of the <sup>[4]</sup> [sixtieth] day from the day of sale, reckoning the said day of sale as the first of the said <sup>[4]</sup> [sixty] days.

And sales against which an appeal may have been preferred and dismissed by the Commissioner shall be final and conclusive from the date of such dismissal, if more than <sup>[4]</sup> [sixty] days from the day of sale, or if less, then at noon of the <sup>[4]</sup> [sixtieth] day as above provided.

Certificate  
of sales.

**28.** Immediately upon a sale becoming final and conclusive, the Collector or other officer as aforesaid shall give to the purchaser a certificate of title in the form prescribed in Schedule A annexed to this Act.

And the said certificate shall be deemed in any Court of Justice sufficient evidence of the title to the estate or share of an estate sold being vested in the person or persons named from the date specified.<sup>[5]</sup>

And the Collector shall also notify such transfer by written proclamation in his own office, and in the Courts of the *Munsifs* and police-*thanas* within whose jurisdictions any part of the estate or share sold shall be situated.

Delivery of  
possession.

**29.** The Collector or other officer as aforesaid shall order delivery of possession of the estate or share purchased to be made by removing any person who may refuse to vacate the same, and by proclamation to the occupants of the property by beat of drum or in such other mode as may be customary, at some convenient place or places; and by affixing a copy

[1] As to the present constitution and powers of the Board of Revenue see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act I of 1913), in Vol. III, of this Code.

[2] The words "if they see cause may recommend to the Local Government to annul the sale; and the Local Government in any such case" were omitted by the Decentralization Act, 1914 (4 of 1914), s. 2, Schedule, Part I, *post*, p. 652.

[3] For power of the Commissioner to receive appeals against sales made under this Act, and to annul such sales, see the Bengal Land-revenue Sales Act, 1868 (Ben. Act 7 of 1868), s. 2, in Vol. II of this Code.

[4] The words "sixtieth" and "sixty" were substituted for the words "thirtieth" and "thirty", respectively, by the Bengal Land-Revenue Sale Act, 1868, (Ben. Act 7 of 1868), s. 4, in Vol. II of this Code.

[5] As to the effect of this certificate, see *ibid*, s. 8.

(Secs. 30-33.)

of the certificate at the *mâl-cutcherry* or in some conspicuous place of the estate or share of an estate purchased.

**30.** The party certified as the proprietor of an estate or share of an estate by purchase under this Act shall be answerable for all instalments of the revenue of Government which may fall due after the latest day of payment aforesaid. Liability of purchaser.

**31.** The Collector shall apply the purchase-money, first, to the liquidation of all arrears due upon the latest day of payment from the estate or share of an estate sold; and, secondly, to the liquidation of all outstanding demands debited to the estate or share of an estate in the public accounts of the district: holding the residue, if any, in deposit on account of the late recorded proprietor or proprietors of the estate or share of an estate sold, or their heirs or representatives, to be paid to his or their receipt on demand in manner following: to wit, in shares proportioned to their recorded interest in the estate or share of an estate sold, if such distinction of shares were recorded, or if not, then as an aggregate sum to the whole body of proprietors upon their joint receipt. Application of purchase-money.

And, if before payment to the late proprietor or proprietors of any surplus that may remain of the purchase-money, the same be claimed by any creditor in satisfaction of a debt, such surplus shall not be payable to such claimant, nor shall it be withheld from the proprietor, except under precept of a Civil Court.

**32.** The annulment by a Commissioner or by [1] the Board of Revenue of a sale made under this Act shall be publicly notified by the Collector or other officer as aforesaid, in the same manner as the becoming final and conclusive of sales is required to be notified by section 28 of this Act; and the amount of deposit and balance of purchase-money shall be forthwith returned to the purchaser with interest thereon at the highest rates of the current public securities: which shall be paid by the Government, unless the proprietor shall have become liable for the same under the provisions of [2] [section 2 of the Bengal Land-revenue Sales Act, 1868.] or section 26 of this Act. Notification of annulment of sale.

Ben. Act 7  
of 1868.

**33.** No sale for arrears of revenue or other demands realizable in the same manner as arrears of revenue are realizable, made after the passing of this Act, shall be annulled by a Court of Justice, except upon the ground of its having been made contrary to the provisions of this Act, and then only on proof that the plaintiff has sustained substantial injury by reason of the irregularity complained of: and no such sale shall Jurisdiction of Civil Courts in suits to annul sales.

[1] The words "the Board of Revenue" were substituted for the word "Government," by the Decentralization Act, 1914 (4 of 1914), s. 2, Sch. Part I, *post*, p. 652.

[2] These words and figures, in section 32 were substituted for the word and figures "section 25" by the Amending Act, 1903 (1 of 1903), Sch. II—*see post*, p. 638. Bengal Act 7 of 1868 is printed in Vol. II of this Code.

(Sects. 34-37.)

be annulled upon such ground, unless such ground shall have been declared and specified in an appeal made to the Commissioner under<sup>[1]</sup> [section 2 of the Bengal Land-revenue Sales Act, 1868]; and no suit to annul a sale made under this Act shall be received by any Court of Justice, unless it shall be instituted within one year from the date of the sale becoming final and conclusive as provided in section 27 of this Act : and no person shall be entitled to contest the legality of a sale after having received any portion of the purchase-money :

Ben. Act of 1868

Provided

that nothing in this Act contained shall be construed to debar any person considering himself wronged by any act or omission connected with a sale under this Act from his remedy in a personal action for damages against the person by whose act or omission he considers himself to have been wronged.

Effects of annulment of sales by decree of Court.

**34.** If a sale made under this Act be annulled by a final decree of a Civil Court, application for the execution of such decree shall be made within six months after the date thereof; otherwise the party in whose favour such decree was passed shall lose all benefit therefrom.

And no order for restoring such decree-holder to possession shall be passed until any amount of surplus purchase-money that may have been paid away by order of a Civil Court be repaid by him, with interest at the highest rate of the current Government securities.

And, if such party shall neglect to pay any amount so recoverable within six months from the date of such final decree, he shall lose all benefit therefrom.

If sale annulled, purchase-money to be refunded

**35.** In the event of a sale being annulled by a final decree of a Court of Justice, and the former proprietor being restored to possession, the purchase-money shall be refunded to the purchaser by Government, together with interest at the highest rate of the current public securities.

Dismissal of suit brought to oust purchaser on ground that purchase was made for another.

**36.** Any suit brought to oust the certified purchaser as aforesaid on the ground that the purchase was made on behalf of another person not the certified purchaser, or on behalf partly of himself and partly of another person, though by agreement the name of the certified purchaser was used, shall be dismissed with costs.

Rights of purchaser of permanently-settled estate sold for its own arrears.

**37.** The purchaser of an entire estate in the permanently-settled districts of [Bengal,] Bihar and Orissa, sold under this Act for the recovery of arrears due on account of the same shall acquire the estate free from all encumbrances which may have been imposed upon it after

[1] These words and figures, in section 33, were substituted for the word and figures "section 25" by the Amending Act, 1903 (1 of 1903), Sch. II—see post, p. 838. Bengal Act 7 of 1868 is printed in Vol. II of this Code.

(Secs. 38-39.)

the time of settlement; and shall be entitled to avoid and annul all under-tenures and forthwith to eject all under-tenants, with the following exceptions:—

*First.*—*Islimdari* or *mukarrari* tenures which have been held at a fixed rent from the time of the permanent settlement.

*Secondly*—Tenures existing at the time of settlement which have not been held at a fixed rent.

Provided always that the rents of such tenure shall be liable to enhancement under any law for the time being in force for the enhancement of the rent of such tenures.

*Thirdly.*—*Talukdari* and other similar tenures created since the time of settlement and held immediately of the proprietors of estates and farms for terms of years so held, when such tenures and farms have been duly registered under the provisions of this Act.

*Fourthly.*—Leases of lands whereon dwelling-houses, manufactories or other permanent buildings have been erected, or whereon gardens, plantations, tanks, wells, canals, places of worship or burning or burying grounds have been made, or wherein mines have been sunk.

And such a purchaser as is aforesaid shall be entitled to proceed in the manner prescribed by any law for the time being in force for the enhancement of the rent of any land coming within the fourth class of exceptions above made, if he can prove the same to have been held at what was originally an unfair rent, and if the same shall not have been held at a fixed rent, equal to the rent of good arable land, for a term exceeding twelve years; but not otherwise:

Provided always that nothing in this section contained shall be construed to entitle any such purchaser as aforesaid to eject any *raiyyat* having a right of occupancy at a fixed rent or at a rent assessable according to fixed rules under the laws in force, or to enhance the rent of any such *raiyyat* otherwise than in the manner prescribed by such laws, or otherwise than the former proprietor, irrespectively of all engagements made since the time of settlement, may have been entitled to do. Proviso

**38.** The following rules for the registration of *talukdari* and other similar tenures created since the time of settlement, and held immediately of the proprietors of estates and of farms for terms of years so held, shall be observed. Registration of certain tenures and farms.

**39.** There shall be two sets of registers—one for common registry and one for special registry. Common and special registry.

## (Sec. 40.)

Common registry shall secure such tenures and farms against any auction-purchaser at a sale for arrears of revenue except the Government.

Special registry shall secure such tenures and farms against any auction-purchaser at a sale for arrears of revenue including the Government.

Application  
for registry.

[<sup>1</sup>]40. The holder of any *talukdari* or other similar tenure, such as is described in section 38 of this Act, desirous of registering it, shall apply by petition to the Collector of the district to which the estate belongs.

The application shall state which description of registry is desired, and shall contain the following particulars so far as the same are ascertainable :—

- (1) the *pargana* or *parganas* in which the tenure is situated ;
- (2) the nature of the tenure ;
- (3) the name or names of the village or villages whereof the land is composed, or wherein it is situated ;
- (4) the area of the land comprised in the tenure, with its boundaries in complete detail ;
- (5) the amount of rent payable annually for the tenure and whether the rent is fixed for a term of years or in perpetuity, and the duties, if any, required to be performed on account of it ;
- (6) the date of the deed constituting the tenure, or the date when the tenure was created ;
- (7) the name of the proprietor who created the tenure ;
- (8) the name of the original holder of the tenure ;
- (9) the name of the present possessor, and, if he be not the original holder, the mode in which he succeeded to the tenure, whether by inheritance, gift, purchase or otherwise, and whether he holds jointly or solely.

Holders of such farms as are described in the said section may apply in like manner for registry of the same.

The application shall contain such of the foregoing particulars as are applicable to farms.

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[1] For limitation of time for making applications for registry of tenures under ss. 40 43 or 44, see the Bengal Land-revenue Sales (Amendment) Act, 1862 (Ben. Act 3 of 1862) s. 2, in Vol. II of this Code.

For fees payable on applications made under ss. 40, 43 or 44, see *ibid.*, s. 3.

(Secs. 41-42.)

**41.** When the application is for common registry, the Collector shall serve a notice on the recorded proprietor or proprietors of the estate in which the tenure or farm is situated, or the authorized agent of such proprietor or proprietors, with a copy of the application annexed; and shall cause a notice, with a copy of the application annexed, to be affixed in his office, and at the *mdl-cutcherry* of the estate in which the tenure or farm is situated, or in such other place or places as in the opinion of the Collector may be best suited to give publicity to the application, requiring the proprietor or any party interested, within thirty days from the issue of the said notice, to file any objections he may have to the registry of the tenure or farm or to any statement contained in the application.

Procedure on application for common registry.

If within the limited time no objection is made the Collector shall register the tenure or farm.

If within the limited time an objection is made by any recorded proprietor, or by any party interested not being a proprietor, the Collector shall examine the person so objecting or his authorized agent, and, if it shall appear to him that such person has probable ground of objection, the Collector shall suspend proceedings, and shall refer the parties to the Civil Court; otherwise he shall grant the application.

If the decision of the Civil Court be in favour of the applicant, the Collector, on the presentation of a copy of the final decree, shall register the tenure or farm.

**42.** When the application is for special registry, the Collector shall serve and issue the notices prescribed in the last preceding section.

Procedure on application for special registry.

If within the limited time no objection is made, the Collector shall cause any inquiry that he may deem necessary for the security of the Government revenue to be made; and, if he is satisfied that the Government revenue of the parent estate is sufficiently secured so far as it may be affected by the tenure or farm in question, he shall report the case to the Commissioner, who, if also satisfied on that point, shall direct the tenure or farm to be registered according to the application; otherwise the application shall be rejected.

If within the limited time any recorded proprietor or any party interested not being a proprietor object to the registry the Collector shall examine the person so objecting or his authorized agent, and, if it shall appear to him that such person has probable ground of objection, shall suspend proceedings, and shall refer the parties to the Civil Court; otherwise he shall proceed as if no objection had been made.

If the decision of the Civil Court be in favour of the applicant, the Collector, on the presentation of a copy of the final decree, shall proceed

(Secs. 43-46.)

as above provided for cases in which no objection is made within the limited time.

Registration  
of leases of  
certain lands

[1]43. Leases of lands of the description specified in the fourth exceptional class in section 37 may be registered, at the option of the holders in the manner and under the rules hereinbefore provided for the registry of *talukdari* and other similar tenures.

Registration  
of old  
tenures.

[1]44. Tenures of the first and second exceptional classes in section 37 may be registered at the option of the holders; and when so registered shall be entered only in the special register.

Application for such registry shall contain the particulars specified in section 40 so far as the same are ascertainable, and notices shall be served and issued in the manner prescribed in section 41.

If within the limited time no objection is made by any recorded proprietor or by any party interested not being a proprietor, the Collector shall make such inquiries as may be necessary to satisfy him as to the validity of the tenure; and, if the result be to satisfy him that the tenure is valid, he shall report the case to the Commissioner, who, if also satisfied that the tenure is valid, shall direct it to be entered in the special register; otherwise the application for registry shall be rejected.

If within the limited time, any recorded proprietor or other party as aforesaid object to the registry of the tenure, the Collector shall examine the person so objecting or his authorized agent, and, if it shall appear to him that such person has probable ground of objection, shall suspend proceedings and refer the parties to the Civil Court; otherwise he shall proceed as if no objection had been made.

If the decision of the Civil Court be in favour of the applicant, the Collector, on the presentation of a copy of the final decree, shall proceed as above provided for cases in which no objection is made within the limited time:

Provide.

Provided always that nothing contained in this section shall be understood as rendering registration necessary for the protection of *bona fide* tenures of the description herein referred to.

45. (*Time for application for registry of tenures and farms.*) Rep. by the Bengal Land-revenue Sales (Amendment) Act, 1862 (Ben. Act 3 of 1862).

Expenses of  
measurement,  
survey or  
local inquiry.

46. The actual expenses of any measurement, survey or local inquiry made under sections 42 and 44 of this Act, shall be borne by the party who applies for the registry of his tenure or farm; and such party may be required by the Collector from time to time to make such advances on this account as he may consider necessary.

(Secs. 47-51.)

**47.** No Civil Court shall be competent to order the Revenue-authorities to enter any tenure or farm in the special register :

Civil Court not competent to order entry in special register.

Provided always that the refusal of the Revenue-authorities so to register any tenure or farm shall not affect the title of the holder, whatever it may be.

**48.** Subject to the general law of limitation,[<sup>1</sup>] any person thinking himself wronged by the registry of a tenure or farm may file a suit for the cancellation of the same

Suit for cancellation of registry of tenure or farm

**49.** In the execution of their functions in the registration of tenures and farms under this Act, all subordinate Revenue authorities shall proceed in accordance with the general instructions which they may receive from the superior Revenue-authorities to whom they are subordinate, and from the Local Government; and all orders passed under the sections aforesaid shall be open to appeal in usual course.

Proceedings of Revenue-authorities in registration of tenures, etc.

The order of a Commissioner for the special registry of a tenure under the provisions of this Act shall be open at any time within one year from the date of registry to revision by the Board of Revenue[<sup>2</sup>] \* \* \* \*,[<sup>3</sup>] on the ground of the Government revenue not having been sufficiently secured, or of the invalidity of the tenure, as the case may be.

**50.** Entry in the special register shall be an effectual protection of the tenure or farm so registered, unless, in a suit instituted by Government in a Civil Court within the period allowed for suits for the recovery of the public revenue, a decree be passed pronouncing the registration to have been obtained by fraud, to the injury of the Government revenue :

Effect of entry in special register

Provided that a tenure or farm in the hands of a *bonâ fide* purchaser for value shall not be avoided by reason of such fraud.

But the tenure or farm shall be liable to such amount of rent as would have been fair and equitable at the time of the special registry thereof—such amount to be fixed by the Collector.

**51.** Tenures and farms of the third exceptional class described in section 37 of this Act, for the special registration of which application shall be made within the prescribed time, and in respect of which the Collector shall have commenced the inquiry prescribed in section 42, shall, in case of the sale of the parent estate for arrears of revenue, be protected pending the duration of such inquiry and shall be protected

Protection of *talukdari* tenures pending inquiry, in case of sale of parent estate for arrears of revenue.

[1] See now the Indian Limitation Act, 1908 (9 of 1908), in General Acts, 1898—1909, Ed. 1928, p. 334.

[2] As to the present constitution and powers of the Board of Revenue, see the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act I of 1913), printed in Vol. III of this Code.

[3] The words "or the Local Government", which were repealed by the Decentralization Act, 1914 (4 of 1914), s. 2, Sch. Part I, *post*, p. 652, are omitted.



(Secs. 52-53.)

eventually by registration, if the final award of the Revenue-authorities upon such application be in favour of the claimant.

Rights of  
purchaser of  
estate not  
permanently  
settled, sold  
for its own  
arrears.

**52.** The purchaser of an estate in a district not permanently settled, sold under this Act for the recovery of arrears due on account of the same, shall acquire the estate free from all encumbrances which may have been imposed upon it after the time of settlement, and shall be entitled to avoid and annul all tenures which may have originated with the defaulter or his predecessors, being representatives or assignees of the original engager, as well as all agreements with *rai-yats* or the like, settled or accredited by the first engager or his representatives, subsequently to the last settlement, as well as all tenures which the first engager may, under the conditions of his settlement, have been competent to set aside, alter or renew, saving always and except leases of lands whereon dwelling-houses, manufactories or other permanent buildings have been erected, or whereon gardens, plantations, tanks, wells, canals, places of worship or burying grounds have been made, or wherein mines have been sunk, which leases or engagements shall, so long as the land is duly appropriated to such purposes, and the stipulated rent paid, continue in force and effect :

Provided that nothing contained in this section shall be construed to entitle any purchaser of land at a public sale for arrears of revenue to demand a higher rate of rent from any persons whose tenure or agreement may be annulled as aforesaid, than was demandable by the former proprietor, except in cases in which such persons may have held their lands under engagements, stipulating for a lower rate of rent than would have been justly demandable for the land, or in cases in which it may be proved that, according to the custom of the *pargana*, *mauza* or other local division, such persons are liable to be called upon for any new assessment or other demand not interdicted by the Regulations of Government.

Rights of  
purchaser  
being sharer  
in estate ;

**53.** Excepting \* \* \* \* \* [1] sharers with whom the Collector, under sections 10 and 11 of this Act, has opened separate accounts, any recorded or unrecorded proprietor or co-partner, who may purchase the estate of which he is proprietor or co-partner, or who by re-purchase or otherwise may recover possession of the said estate, after it has been sold for arrears under this Act, and likewise any purchaser of an estate sold for arrears or demands other than those accruing upon itself, shall by such purchase acquire the estate subject to all its encumbrances existing at the time of sale, and shall not acquire any rights in respect to under-tenants or *rai-yats* which were not possessed by the previous proprietor at the time of the sale of the said estate.

and of  
purchaser of  
estate not  
sold for its  
own arrears.

[1] The words and figures " sharers in estates under *batwara* who may have saved their shares from sale under ss. 33 and 34, Regulation 19, 1814, and, " which were repealed by the Amending Act, 1891 (12 of 1891), are omitted.

## (Secs 51 to 60)

**54.** When a share or shares of any estate sold under the Rights of provisions of section 1 or section 2 of this Act shall be the subject of shares of shares subject to all encumbrances existing on the estate at its state which were no longer valid at the date of sale.

**55.** Any amount due to the Government or any other person in respect of any estate sold under this Act shall be paid by the purchaser of the estate to the Collector or other officer in charge of the sale before the sale is completed. If the purchaser fails to do so, he shall be liable to be sold to defaulters. except distribution which may be made in accordance with the purpose on or before the said latest day.

**56.** Any Collector or other officer who is concerned in conducting a sale under this Act shall be liable to punishment if he commits any offence in his presence in open court or office for the time being, by fine to an extent not exceeding two hundred rupees or imprisonment for a period not exceeding one month, and the Magistrate may in such an offence be sent by a Collector or other officer as aforesaid shall cause his sentence into effect.

Provided that an appeal from any order passed under this section shall lie to the Revenue Commissioner whose decision shall be final.

**57.** A default to make good a bid by making the deposit required by section 22 of this Act shall be held to be a contempt. Default as to deposit a contempt

**58.** When a sale is made under this Act for the recovery of arrears of revenue due thereon and there be no bidder the Collector or other officer as aforesaid may purchase the estate on account of the Government for the purpose of the highest bid be insufficient to cover the said arrears and those subsequently accruing up to the date of sale the Collector or other officer as aforesaid may purchase the estate on account of the Government at the highest amount bid in both which cases the Government shall acquire the property subject to the provisions of this Act [1]. Government may purchase at sale

**59.** (Fees and charges demandable by Collector) Rep by the Bengal Land-revenue Sules (amendment) Act 1862 (Part 1 of 1862)

**60.** The provisions of Regulation 7 1822 [2] and Regulation 9 1825 [3] shall be in force in every estate in any part of which a measurement survey or local inquiry may be made under this Act and in every estate purchased or taken on account of Government under this Act. Regulations 7, 1822, and 9, 1825, in force in certain estates

[1] As to the management of estates purchased by the Collector see the Bengal Government Indemnity Regulation 1822 (11 of 1822) s 36, ante p 237

[2] The Bengal Land revenue Settlement Regulation, 1822 It is printed ante, p 202

[3] The Bengal Land revenue Settlement Regulation, 1825 It is printed ante, p 253

(Secs. 61-62.)

Interpreta-  
tion.

**61.** In the construction of this Act the word "Collector" shall include a Deputy Collector or other officer exercising, by the authority of Government, the powers of a Collector or Deputy Collector.[<sup>1</sup>]

Application  
of Act.

**62.** The operation of this Act shall be confined to such parts of the Lower Provinces in the Presidency of Fort William in Bengal [<sup>2</sup>] as are or shall be subject to the general Regulations of that Presidency.[<sup>3</sup>]

[<sup>4</sup>]SCHEDULE A.

I certify that A. B. has purchased, under Act No. 11 of 1859, the *mahál* (or share of a *mahál*) specified below, standing in the *tauzi* of the district of \_\_\_\_\_ and that his purchase took effect on the \_\_\_\_\_ day of \_\_\_\_\_ (being the day after that fixed for last day of payment.)

(Signed.) D. E.,  
Collector.

## SPECIFICATION.

(If of an entire *mahál*.)

Tauzi number

Name of *mahál*

Name of the former proprietor

*Sadar jama*(If a share of a *mahál*.)Tauzi number of the entire *mahál*Name of the entire *mahál**Sadar jama* of the entire *mahál*

Description of the share sold

Subordinate *tauzi* number of the share sold

Name of the former proprietor of the share sold

*Sadar jama* for which the share sold is separately liable.

[1] Cf. the definition of "Collector" in the Bengal Land-revenue Sales Act, 1868, (Ben. Act 7 of 1868), s. 1, in Vol. II of this Code. That definition, and the definitions of "proprietor," "revenue," "estate," "tenure," and "jurisdiction," (of a Collector) contained in that section, apply to the present Act.

[2] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

[3] But see foot-notes under the heading "Local Extent", ante, p. 349.

[4] This Schedule is referred to in s. 28, ante, p. 360.

*(Sec. 62.)*

SCHEDULE B.

**FEEs.**

*Rep. by the Amending Act, 1903 (1 of 1903).*

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ACT 6 OF 1876.

[THE CHOTA NAGPUR ENCUMBERED ESTATES ACT, 1876.][<sup>1</sup>]

(14th March, 1876.)

**An Act to relieve certain landholders in Chota Nagpur.**

**Preamble.** Whereas it is expedient to provide for the relief of holders of land in Chota Nagpur who may be in debt, and whose immovable property may be subject to mortgages, charges and liens; It is hereby enacted as follows :—

**I.—PRELIMINARY.**

**Short title.** 1. This Act may be called the Chota Nagpur Encumbered Estates Act, 1876.

**II.—VESTING ORDER.**

**Power to vest management of property in an officer appointed by Commissioner.** 2. Whenever any holder of immovable property, or (when such holder is a minor, or of unsound mind, or an idiot) his guardian, committee or other legal curator, or the person who would be heir to such holder if he died intestate, or (when such person is a minor, or of unsound mind, or an idiot) his guardian, committee or other legal curator,

[<sup>2</sup>][or the Deputy Commissioner within whose jurisdiction any such property belonging to such holder is situate, when—

(i) attachment has been made of, or a proclamation has been issued for the sale of, such property or any portion thereof, in execution of a decree or order of a Civil Court or a Revenue Court, or

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[1] LEGISLATIVE PAPERS.—For statement of Objects and Reasons, *see* Gazette of India, 1876, Part V, p. 21; and for Proceedings in Council, *see ibid*, 1876, Supplement, pp. 54, 59, 195, 218, 289 and 322.

LOCAL EXTENT.—This Act applies to the Chota Nagpur Division (*see* the title and preamble) and has been applied as amended by Act 5 of 1884, *post*, p. 392, with certain other modifications, to the Deo Estate in the Gaya District—*see* the Deo Estate Act, 1886 (9 of 1886), which, being of a purely private character, has not been re-printed in this Code.

[2] These clauses in square brackets in s. 2 were substituted for the words “or, when any such property belonging to such holder has been attached in execution of a decree of a Civil Court, the Deputy Commissioner within whose jurisdiction such property is situate”, by the Chota Nagpur Encumbered Estates (Amendment) Act, 1909 (Ben. Act 3 of 1909), s. 2(1), in Vol. II of this Code.

(Sec 2)

(u) such Deputy Commissioner is satisfied after making such inquiry as he may think fit and after considering and placing on record all representations (if any) made by such holder, that such holder has entered upon a course of wasteful extravagance likely to dissipate his property,]

applies in writing to the Commissioner, stating that the holder of the said property is subject to or that his said property is charged with, debts or liabilities other than debts due, or liabilities incurred, to Government, and requesting that the provisions of this Act be applied to his case,

the Commissioner may with the previous consent of the Lieutenant-Governor of Bengal<sup>[1]</sup> [(to be obtained through the Board of Revenue)] by order published in the *Calcutta Gazette*, appoint an officer (hereinafter called the Manager) and vest in him the management of the whole or any portion of the immovable property of or to which the said holder is then possessed or entitled in his own right or which he is entitled to redeem, or which may be acquired by or devolve on him or his heir during the continuance of such management  
[-] [Provided as follow:—

*First*, if any holder referred to in clause (u) of this section petitions the Commissioner, while the inquiry referred to in that clause is being made, to postpone until the petitioner has been heard, the passing of orders on any request that the Deputy Commissioner may make for applying the provisions of this Act to his case,

and if a request as aforesaid be made by the Deputy Commissioner,

the Commissioner shall appoint a day for hearing the petitioner, and if he appears, either in person or by agent, on the day so appointed, and on the subsequent day (if any) to which the hearing is adjourned, the Commissioner shall not pass any order in the matter until he has been heard,

*Secondly*, if any holder referred to in clause (u) of this section petitions the Board of Revenue, while any proceedings are pending before the Commissioner under proviso *First*, to postpone, until the petitioner has been heard the passing of orders on any request that the Commissioner may make for the consent of the Lieutenant-Governor to the application of the provisions of this Act to his case,

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[1] The words and brackets in square brackets in s 2 were inserted by the Chota Nagpur Encumbered Estates (Amendment) Act 1909 (Ben Act 3 of 1909), s 2 (2), in Vol II of this Code

[2] These provisos in square brackets in s 2 were inserted by s 2 (3) of the same Act.



(Sec. 2A.)

and if a request as aforesaid be made by the Commissioner, the Board of Revenue shall appoint a day for hearing the petitioner; and if he appears, either in person or by agent, on the day so appointed, and on the subsequent day (if any) to which the hearing is adjourned, the Board shall not pass any order in the matter until he has been heard;

*Thirdly*, the consent of the Lieutenant-Governor shall not be given in the case of any holder referred to in clause (ii) of this section unless either—

such holder belongs to a family of political or social importance, or the Lieutenant-Governor is satisfied that it is desirable, in the interests of the tenants of such holder, that such consent should be given.]

[<sup>1</sup>] [Every application under this section must state—

(a) the particulars of the debts and liabilities as aforesaid to which the said holder is subject or with which his immovable property is charged; and

(b) the particulars of the immovable property of or to which he is then possessed or entitled in his own right or which he is entitled to redeem.

Every such application must, except when it is made by a Deputy Commissioner, be verified by the applicant or by some other competent person in the manner required by law [<sup>2</sup>] for the verification of plaints; and, if it contains any averment which the person making the verification knows or believes to be false or does not know or believe to be true, he shall be deemed to have given false evidence within the meaning of 45 of the Indian Penal Code.] 1860

Power of Deputy Commissioner to order production of statement and documents.

[<sup>3</sup>] 2A. (1) For the purpose of making an application under section 2 in the case of any holder, the Deputy Commissioner may, by written order, require the said holder to produce before him, on a date to be stated in such order,—

(i) a statement in writing, showing—

(a) all debts and liabilities to which the said holder is subject,

[1] These clauses in square brackets in s. 2 were added by the Chota Nagpur Encumbered Estates (Amendment) Act, 1884 (5 of 1884), s. 2, *post*, p. 392.

[2] See now rule 15 in Order VI in Schedule I to the Code of Civil Procedure, 1908 (5 of 1908)

[3] S. 2A was inserted by the Chota Nagpur Encumbered Estates (Amendment) Act, 1909 (Ben. Act 3 of 1909), s. 3, in Vol. II of this Code.

(Secs 2B-3.)

- (b) the amount, kind and particulars of his property, and the annual value of any such property not consisting of money,
  - (c) the names and residences of his creditors so far as they are known to, or can be ascertained by him, and
  - (d) such other information as the Deputy Commissioner may, by his order, require, and
  - (ii) such documents relating to his estate, which are in the possession, power or control of the holder, as the Deputy Commissioner may deem necessary.
- (2) The Deputy Commissioner may, by a like order, call upon any person in whose possession, power or control he has reason to believe there is any document relating to a debt or liability to which the holder is subject, to submit the same to him for the aforesaid purpose.

[<sup>1</sup>]2B. At any time after the receipt of an application under section 2 from or in the case of any holder, the Commissioner may, by order, prohibit the sale of the immovable property of such holder or any portion thereof, in execution of any decree or order of any Civil or Revenue Court, until the passing of final orders on such application, either rejecting it or vesting the property in a manager.

Power of Commissioner to prohibit sale of immovable property.

3. [<sup>2</sup>][On the publication of an order under section 2] the following consequences shall ensue :—

Effect of order.

*First*, all proceedings which may then be pending in any Civil Court in British India,<sup>[3]</sup> [or in any Revenue Court in Bengal], in respect to such debts or liabilities, shall be barred; and all processes, executions and attachments for or in respect of such debts and liabilities shall become null and void;

Bar of suits.

*Secondly*, so long as such management continues,

Freedom from arrest.

the holder of the said property and his heir shall not be liable to arrest for or in respect of the debts and liabilities to which the said holder was immediately before the said publication subject, or with which the property so vested as aforesaid or any part thereof was at the time of the said publication charged, other than debts due, or liabilities incurred, to Government,

[1] S. 2B was inserted by the Chota Nagpur Encumbered Estates (Amendment) Act, 1911 (Ben. Act 4 of 1911), s. 2, in Vol. II of this Code.

[2] The words and figure in square brackets in s. 3 were substituted for the words "On such publication" by the Chota Nagpur Encumbered Estates (Amendment) Act, 1884 (5 of 1884), s. 3, *post*, p. 392.

[3] The words "or in any Revenue Court in Bengal" in s. 3, were inserted by the Chota Nagpur Encumbered Estates (Amendment) Act, 1909 (Ben. Act 3 of 1909), s. 4 (1), in Vol. II of this Code.

## (Sec. 4.)

Movable property not attachable for prior debts. nor shall their movable property be liable to attachment or sale, under process of any Civil Court in British India [1] [or any Revenue Court in Bengal], for or in respect of such debts and liabilities, other than as aforesaid; and

Cessation of power to alienate. *Thirdly*, so long as such management continues,

(a) the holder of the said immovable property and his heir shall be incompetent to mortgage, charge, lease or alienate their immovable property or any part thereof, or to grant valid receipts for the rents and profits arising or accruing therefrom,

Immovable property freed from attachment.

(b) such property shall be exempt from attachment or sale under such process as aforesaid, except for or in respect of debts due, or liabilities incurred, to Government, and

Cessation of power to contract.

(c) the holder of the same property and his heir shall be incapable of entering into any contract which may involve them, or either of them, in pecuniary liability.

## III.—DUTIES OF MANAGER.

Manager to receive rents and profits, 4. The Manager shall, during his management of the said immovable property, receive and recover all rents and profits due in respect thereof; and shall, upon receiving such rents and profits, give receipts for the same.

and pay therefrom—

From the sums so received, he shall pay—

the Government demand,

*first*, the Government revenue, and all debts or liabilities for the time being due or incurred to Government;

rent due to superior landlord,

*secondly*, in the case of under-tenures, the rent (if any) due to the superior landlord, in respect of the said property;

for maintenance of holder and his heir,

*thirdly*, such annual sum as appears to the Commissioner requisite for the maintenance of the holder of the property, his heir, and their families;

loans raised for estate,

[2]*[fourthly]*, all sums due in re-payment of loans effected under the power conferred by clause (c) of section 18];

costs of repairs and improvements,

[3]*[fifthly]* the costs of such repairs and improvements of the property as appear necessary to the Manager and are approved by the Commissioner;

[1] The words "or any Revenue Court in Bengal" in s. 3 were inserted by s. 4 (2) of the Chota Nagpur Encumbered Estates (Amendment) Act, 1909 (Ben. Act 3 of 1909), in Vol. II of this Code.

The term "Bengal" includes the Province of Bihar and Orissa.

[2] This clause *fourthly* in s. 4 was inserted by s. 5 (1) of the same Act.

[3] This clause in s. 4 was re-numbered clause *fifthly* by the same section.

(Secs. 5-7.)

and the residue shall be applied in discharge of the costs of the management, and in settlement of such debts and liabilities of the holder of the property and his heir as may be established under the provisions hereinafter contained,

\* \* \* \* \*

\*[1]

#### IV.—SETTLEMENT OF DEBTS

5. On the publication of the order vesting in him the management of the said property, the Manager shall publish a notice, in English [and the language of the district or estate], calling upon all persons having claims against the holder of the said property to notify the same in writing to such Manager within three months from the date of the publication.

Notice to claimant against holder of property.

Such notice shall be published by being posted at the *cutcheries* in the district or districts in which the said property lies, and at such other places as the Manager thinks fit.

Notice how published.

6. Every such claimant shall, along with his claim, present full particulars thereof.

Claim to contain full particulars.

Every document on which the claimant founds his claim, or on which he relies in support thereof, shall be delivered to the Manager along with the claim.

Documents to be given up.

If the document be an entry in any book, the claimant shall produce the book to the Manager, together with a copy of the entry on which he relies. The Manager shall mark the book for the purpose of identification, and, after examining and comparing the copy with the original, shall return the book to the claimant.

Entries in books.

If any document in the possession or under the control of the claimant is not delivered or produced by him to the Manager along with the claim, the Manager may refuse to receive such document in evidence on the claimant's behalf at the investigation of the case.

Exclusion of documents not produced.

7. Every debt or liability, other than debts due, or liabilities incurred, to Government or (in the case of under-tenures) the rent due to the superior landlord, to which the holder of the property is subject, or with which the property is charged, and which is not duly notified

Debt not duly notified to be barred.

[1] The words "and also in or towards the re-payment, either before or after the liquidation of such debts and liabilities, of any loan received from the Government by the Manager under this Act", which were repealed by the Chota Nagpur Encumbered Estates (Amendment) Act, 1909 (Ben. Act 3 of 1909), s. 5 (2), in Vol. II of this Code, are omitted.

[2] These words in square brackets in s. 5 were substituted for the words "Urdu and Hindi" by *ibid.*, s. 6.

(Sect. 8-9.)

to the Manager within the time and in manner heretofore mentioned, shall be barred :

Admission of claim within further period. Provided that, when proof is made to the Manager that the claimant was unable to comply with the provisions of sections 5 and 6, the Manager may admit his claim within the further period of [1] [six months] from the expiration of the said period of three months.

Barring of debts incurred after making petition for postponement of orders for application of Act. [2] [If a holder of property has petitioned the Commissioner, under the first proviso in section 2 or the first proviso to section 12A, sub-section (5), to postpone the passing of orders on any request that the Deputy Commissioner might make for applying or re-applying the provisions of this Act to his case,

every debt or liability which such holder has, after the date on which the said request was made, incurred, or charged upon his property, shall be barred, with the exception of—

(a) debts due, or liabilities incurred, to the Government,

(b) debts or liabilities which the Deputy Commissioner is satisfied had necessarily to be incurred for the maintenance of such holder or his family,

(c) in the case of under-tenures, the rent due to the superior landlord, and

(d) interest due in respect of debts or liabilities incurred before the said date.]

Determination of debts. 8. The Manager shall, in accordance with the rules to be made under this Act, determine the amount of all principal debts and liabilities justly due to the several creditors of the holder of the property, and to persons holding mortgages, charges or liens thereon, and the interest (if any) due at the date of such determination, in respect of such debts and liabilities.

Power to enquire into consideration of leases or grants. 9. If such property or any part thereof be in the possession of any person claiming to hold it under a lease [3] [or rent-free or maintenance grant] dated within the three years immediately preceding the publication of the order mentioned in section 2, the Manager, with the sanction of the Deputy Commissioner and Commissioner (or of the Commissioner

[1] The words "six months," in s. 7, were substituted for the words "nine months" by the Chota Nagpur Encumbered Estates (Amendment) Act, 1884 (5 of 1884), s. 5, *post*, p. 392.

[2] These clauses in square brackets in s. 7 were added by the Chota Nagpur Encumbered Estates (Amendment) Act, 1909 (Ben. Act 3 of 1909), s. 7, in Vol. II of this Code.

[3] These words in square brackets in s. 9 were inserted by *ibid*, s. 8(1)(a).

(Secs. 10-11.)

only, if the Deputy Commissioner be himself the Manager), may inquire into the sufficiency of the consideration for which the lease<sup>[1]</sup> [or grant] was given;

and, if such consideration appear to him insufficient, may by order either set aside the lease <sup>Power to set</sup> <sup>aside leases</sup> <sup>or grants.</sup> <sup>[1]</sup> [or grant] or cause the person so in possession to pay such consideration for the said lease<sup>[1]</sup> [or grant] as the Manager thinks fit, and in default of such payment the lease<sup>[1]</sup> [or grant] shall be cancelled :

<sup>[2]</sup> [Provided that no rent-free or maintenance grant shall be set aside or cancelled without the previous sanction of the Commissioner, which may be accorded only if he is satisfied that the grant was not made in good faith.]

**10.** An appeal against any refusal, admission, determination or order under sections 6, 7, 8 or 9, <sup>Appeal to</sup> <sup>Deputy Com-</sup> <sup>missioner</sup> <sup>[3]</sup> [except a refusal under the proviso to section 9], shall lie, if preferred within six weeks from the date thereof, to the Deputy Commissioner within whose jurisdiction the property is situate; and the decision of the Manager, if no such appeal has been so preferred, <sup>[4]</sup> [shall, subject to the provisions of sections 10A and 21A, be final] :

Provided that, if the Deputy Commissioner be himself the Manager, the appeal shall lie to the Commissioner.

An appeal shall lie from any decision of the Deputy Commissioner, <sup>Appeal to</sup> <sup>Commissioner.</sup> if preferred within six weeks of the date of his decision, to the Commissioner; and the decision of such Commissioner, or of the Deputy Commissioner, if no such appeal has been so preferred<sup>[4]</sup> [shall, subject to the provisions of sections 10A and 21A, be final].

<sup>[5]</sup>**10A.** The Commissioner may of his own motion review any order or proceeding under sections 6, 7, 8, 9 or 10, and may revise, modify, or reverse the same. <sup>Review by</sup> <sup>Commissioner.</sup>

**11.** When the amount due in respect of the debts and liabilities mentioned in section 8 has been finally determined, the Manager shall prepare and submit to the Commissioner a schedule of such debts and liabilities, and a scheme for the settlement thereof \* \* \* <sup>Scheme for</sup> <sup>settlement of</sup> <sup>debts.</sup> <sup>[6]</sup>.

[1] The words "or grant" were inserted by s. 8(1) (b) of the Chota Nagpur Encumbered Estates (Amendment) Act, 1909 (Ben. Act 3 of 1909), in Vol. II of this Code.

[2] This proviso was added by s. 8 (2) of the same Act.

[3] These words and figures in square brackets in s. 10 were inserted by s. 9 (a) of the same Act.

[4] These words, figures and letters in s. 10 were substituted for the words "shall be final" by s. 9 (b) of the same Act.

[5] S. 10A was inserted by s. 10 of the same Act.

[6] The words "and such scheme when approved by the Commissioner shall be carried into effect", repealed by the Chota Nagpur Encumbered Estates (Amendment) Act, 1922 (B. and O. Act 8 of 1922), s. 2, in Vol. III of this Code, are omitted.

## (Secs. 11A-12.)

[1]\*

Proceedings  
of Commis-  
sioner on  
submission  
of scheme.

[2]11A. The Commissioner may—

- (a) as often as he thinks fit before approving the scheme send it back to the Manager for revision, and direct him to make such further inquiry as may be requisite for the proper preparation thereof, or
- (b) approve the scheme, or any revised scheme, submitted to him, either as it stands or subject to such modification (if any) as he may deem expedient.

(2) Such scheme or revised scheme when so approved shall be carried into effect subject to any modifications that may subsequently be made therein under section 11B.

Power of  
Commis-  
sioner to  
relinquish  
management  
or modify  
approved  
scheme.

[2]11B. If at any time after the approval of the scheme or of any modification thereof made in the manner hereinafter provided in this section, new circumstances come into existence, facts are disclosed or events occur which, in the opinion of the Commissioner, render the scheme unsuitable for the settlement of the debts and liabilities mentioned in the schedule referred to in section 11, the Commissioner may, with the previous sanction of the Board of Revenue, direct—

- (a) that the management of the property be relinquished, or
- (b) that the scheme be modified or, if it has already been modified under this section, that it be further modified, and any modification made in compliance with such direction shall, after it has been approved by the Commissioner, take effect as part of the scheme.

Restoration  
of owner to  
his property.

12. [3] [When all the debts and liabilities mentioned in the schedule referred to in section 11, and the amount of any loan[4] [effected under the power conferred by clause (c) of section 18.] together with the interest (if any) due thereon, have been paid and discharged],

[5] [or if the Commissioner, at any time before a scheme has been approved by him under section [6] [11A], thinks that the provisions of

[1] The second clause of s. 11, repealed by the Chota Nagpur Encumbered Estates (Amendment) Act, 1922 (B. and O. Act 8 of 1922), s. 2, in Vol. III of this Code, is omitted.

[2] Ss. 11A and 11B were inserted by *ibid*, s. 3.

[3] This clause in square brackets in s. 12 was substituted for the original clause by the Chota Nagpur Encumbered Estates (Amendment) Act, 1884 (5 of 1884), s. 6 (1), *post*, p. 392.

[4] These words, brackets, letters and figures in s. 12 were substituted for the words "received from the Government under section eighteen" by the Chota Nagpur Encumbered Estates (Amendment) Act, 1909 (Ben. Act 3 of 1909), s. 11 (1), in Vol. II of this Code.

[5] This clause in square brackets in s. 12 was substituted for the original clause by the Chota Nagpur Encumbered Estates (Amendment) Act, 1884 (5 of 1884), s. 6 (2), *post*, p. 392.

[6] These figures and letter were substituted for the figures "11" by the Chota Nagpur Encumbered Estates (Amendment) Act, 1922 (B. & O. Act 8 of 1922), s. 4, in Vol. III of this Code.

(Sec. 12A.)

this Act should not continue to apply to the case of the holder of the said property or his heir], [1] [or if after a scheme has been so approved a direction is made under section 11B for the relinquishment of the management of the property].

[2] [or if at any time an arrangement is made for the satisfaction of the debts and liabilities which is accepted by the creditors and approved by the Commissioner],

such holder or his heir shall be restored to the possession and enjoyment of the property, or of such part thereof as has not been sold by the Manager under the power contained in section 18, but subject to the leases and mortgages (if any) granted and made by the Manager under the powers hereinafter contained :

[3] [Provided that, where a fresh order has been made under section 2, in pursuance of section 12A, sub-section (5), re-appointing a Manager and vesting in him the management of the whole or any portion of the property of any holder, such property shall not be restored to such holder, but shall be retained by the Manager for restoration to the heir of such holder in due course.]

Where the holder of the property or his heir is so restored under the circumstances mentioned in the second clause of this section, such restoration shall be notified in the *Calcutta Gazette*; and thereupon the proceedings, processes, executions and attachments mentioned in section 3 (so far as they relate to debts and liabilities which the Manager has not paid off or compromised), and the debts and liabilities barred by section 7, shall be revived; and any mortgagee or conditional vendee dispossessed under section 16 shall be reinstated, unless his claim under the mortgage or conditional sale has been satisfied;

Restoration to be notified.  
Revival of barred proceedings and debts.  
Reinstatement of mortgagees.

and in calculating the periods of limitation applicable to such revived proceedings, and to suits to recover and enforce such revived debts and liabilities, the time intervening between such restoration and the publication of the order mentioned in section 2[4] [or the making of the order (if any), mentioned in section 2B] shall be excluded.

Period of limitation as to revived proceedings and debts.

[5] 12A. (1) When the possession and enjoyment of property is restored, under the circumstances mentioned in the first or the third

Continuance of disabilities

[1] These words in square brackets in s. 12 were added by the Chota Nagpur Encumbered Estates (Amendment) Act 1922 (B. & O. Act 8 of 1922), s. 4, in Vol. III of this Code.

[2] This clause in square brackets in s. 12 was inserted by the Chota Nagpur Encumbered Estates (Amendment) Act, 1884 (5 of 1884), s. 6 (3), *post*, p. 392.

[3] This proviso in s. 12 was inserted by the Chota Nagpur Encumbered Estates (Amendment) Act, 1909 (Ben. Act 3 of 1909), s. 11 (2), in Vol. II of this Code.

[4] These words in square brackets were inserted by Ben. Act 4 of 1911, s. 3, in Vol. II of this Code.

[5] S. 12A was inserted by the Chota Nagpur Encumbered Estates (Amendment) Act, 1909 (Ben. Act 3 of 1909), s. 12, in Vol. II of this Code.



## (Sec. 121.)

after  
restoration  
of property  
to owner.

clause of section 12, to the person who was the holder of such property when the application under section 2 was made, such person shall not be competent, without the previous sanction of the Commissioner,—

(a) to alienate such property, or any part thereof, in any way, or

(b) to create any charge thereon extending beyond his lifetime.

(2) If the Commissioner refuses to sanction any such alienation or charge, an appeal shall lie to the Board of Revenue, whose decision shall be final.

(3) Every alienation and charge made or attempted in contravention of sub-section (1) shall be void.

(4) The Deputy Commissioner may at any time, either of his own motion or on the application of any person interested, make an inquiry to ascertain whether any holder of property who is referred to in sub-section (1) has made or attempted to make any alienation or charge in contravention of that sub-section, and shall consider and place on record all representations (if any) made by such holder and by the person in whose favour such alienation or charge is alleged to have been made.

(5) If the Deputy Commissioner is satisfied, after making such an inquiry, that such holder has made or attempted to make any alienation or charge in contravention of sub-section (1), he may make a report to the Commissioner, setting forth the result of the inquiry and showing all debts and liabilities to which such holder is subject, and requesting that the provisions of this Act be re-applied to his case; and the Commissioner may, with the previous consent of the Lieutenant-Governor (to be obtained through the Board of Revenue), publish a fresh order under section 2, re-appointing a Manager and vesting in him the management of the whole or any portion of the property of such holder :

Provided as follows—

*First*, if the said holder petitions the Commissioner, while the said inquiry is being made, to postpone, until the petitioner has been heard, the passing of orders on any request that the Deputy Commissioner may make for re-applying the provisions of this Act to his case,

and if a request as aforesaid be made by the Deputy Commissioner,

the Commissioner shall appoint a day for hearing the petitioner ; and if he appears, either in person or by agent, on the day so appointed, and on the subsequent day (if any) to which the hearing is adjourned, the Commissioner shall not pass any order in the matter until he has been heard ;

(Secs 13-111)

Secondly if the said holder petitions the Board of Revenue while any proceedings are pending before the Commissioner under proviso first to postpone until the petition has been heard the passing of orders on any request that the Commissioner may make for the consent of the Lieutenant-Governor to the re application of the provisions of this Act to his case

and if a request as aforesaid be made by the Commissioner

the Board of Revenue shall appoint a day for hearing the petitioner and if he appears either in person or by agent, on the day so appointed and on the subsequent day (if any) to which the hearing is adjourned the Board shall not pass any order in the matter until he has been heard

(6) No suit shall be brought to charge any person to whom property is restored under the circumstances mentioned in the first or the third clause of section 12—

(i) upon any promise made after such restoration, to pay any debt contracted while the management of the property was vested in the Manager, or

(ii) upon any ratification made after such restoration of any promise or contract made while the management of the property was vested in the Manager

whether or not there be any new consideration for such promise or ratification

V—POWERS OF MANAGER

**13.** The manager may, from time to time call for further and more detailed particulars of any claim preferred before him under this Act, and may at his discretion refuse to proceed with the investigation of the claim until such particulars are supplied

Power to call for further particulars

**14.** For the purposes of this Act the Manager may summon and enforce the attendance of witnesses and compel them to give evidence and compel the production of documents by the same means and, as far as possible, in the same manner, as is provided in the case of a Civil Court by the Code of Civil Procedure [1]

Power to summon witnesses and compel production of documents

[2] **14A.** (1) The Manager may order all holders of tenures and under-tenures on property under his management to produce their evidence of title to such tenures and under-tenures

Power to order production of title to tenures and under-tenures

[1] This reference to Act 8 of 1859 should now be read as applying to Act 5 of 1908 (the Code of Civil Procedure, 1908),—see s 158 of the latter Act

[2] S 14A was inserted by the Chota Nagpur Encumbered Estates (Amendment) Act, 1909 (Ben Act 6 of 1909), s 13, in Vol II of this Code

(Secs. 15-18.)

(2) Any person who refuses to comply with an order of the Manager under sub-section (1) shall be liable, by order of the Deputy Commissioner, to a fine not exceeding five hundred rupees :

Provided that the Deputy Commissioner shall, before passing such order, hear any explanation or objection that may be made, by such person.

**Investigation to be deemed a judicial proceeding.** **15.** Every investigation conducted by the Manager with reference to any claim preferred before him under this Act, or to any matter connected with any such claim, shall be taken to be a judicial proceeding within the meaning of the Indian Penal Code.

45 of 1860.

**Statements of persons examined to be evidence.** And every statement made by any person examined by or before the Manager with reference to such investigation, whether upon oath or otherwise, shall be taken to be evidence within the meaning of the same Code.

**Manager to have powers of holder of estate.** **16.** The Manager shall have, for the purpose of realizing and recovering the rents and profits of the said immovable property, the same powers as the holder of the property would have had for such purpose if this Act had not been passed.

**Power to remove mortgagee or conditional vendee in possession.** And if such property, or any part thereof, be in the possession of any mortgagee or conditional vendee, the Manager may apply to the Court of the Deputy Commissioner within whose jurisdiction the property is situate, and such Court shall cause the same to be delivered to the Manager as if a decree therefor had been made in his favour, but without prejudice to the mortgagee or vendee preferring his claim under the provisions hereinbefore contained.

**Power to lease.** **17.** Subject to the rules made under section 19, the Manager shall have power to demise all or any part of the property under his management for any term of years [1] [or in perpetuity], to take effect in possession in consideration of any fine or fines, or without fine, and reserving such rents and under such conditions as may be agreed upon.

**Power of Manager to raise money by mortgage, sale, or loan.** [2] **18.** After a scheme has been approved by the Commissioner under section [3] [11A], the Manager shall, subject to the sanction of Commissioner, have power.—

(a) to demise by way of mortgage the whole or any part of such property for a term not exceeding twenty years from the date of publication of the order under section 2, or

[1] The words in square brackets in s. 17 were substituted for the words "not exceeding twenty years absolute" by the Chota Nagpur Encumbered Estates (Amendment) Act, 1884 (5 of 1884), s. 7, *post*, p. 393.

[2] The ss. 18, 18A and 18B here printed were substituted for the former s. 18 by the Chota Nagpur Encumbered Estates (Amendment) Act, 1909 (Bon. Act 3 of 1909), s. 14, in Vol. II of this Code.

[3] These figures and letter were substituted for the figures, "11" by the Chota Nagpur Encumbered Estates (Amendment) Act, 1922 (B. and O. Act 8 of 1922), s. 5 in Vol. III of this Code.

(Secs. 18A-19.)

(b) to sell by public auction or by private contract, and upon such terms as the Manager thinks fit, such portion of such property as may appear expedient,

for the purpose of raising any money which may be required for the settlement of the debts and liabilities to which the holder of the property is subject, or with which such property or any part thereof is charged, or,

(c) to borrow money, at such rate of interest as appears reasonable to the Board of Revenue,

for the aforesaid purpose or for the purpose of meeting the costs of such repairs and improvements of the property as appear necessary to the Manager and are approved by the Commissioner.

[<sup>1</sup>] **18A.** (1) A mortgagee advancing money upon any mortgage made under section 18 shall not be bound to see that such money is wanted, or that no more than is wanted is raised.

Freedom from obligation to inquire into necessity for, or application of, money.

(2) The receipt of the Manager for any moneys paid to him as such shall discharge the person paying the same therefrom and from being concerned to see to the application thereof

[<sup>1</sup>] **18B.** Subject to the sanction of the Commissioner, the Manager shall have power to enter upon any contract or to execute or relinquish any lease or counterpart of a lease, or to take any action not otherwise provided for in this Act which in his opinion is necessary for the proper care and management of the property.

Power of Manager to contract and take action for the benefit of the property.

VI.—MISCELLANEOUS.

**19.** The Lieutenant-Governor of Bengal may [<sup>2</sup>][subject to the control of the Governor General in Council] from time to time make rules, consistent with this Act, to regulate the following matters:—

Power to

(a) the security to be required from subordinate officers under this Act;

[<sup>3</sup>](aa) the classes of cases which may be submitted by the Commissioner for the consent of the Lieutenant-Governor under section 2;]

(b) the notices to be given under this Act and the publication of such notices;

(c) the procedure to be followed in determining under section 8 the debts and liabilities due to creditors and other persons and in performing the other duties imposed on any officer by this Act;

[<sup>1</sup>] Ss. 18A and 18B are new—see foot-note [2] on page 386, *ante*.

[<sup>2</sup>] The words in square brackets in s. 19 were inserted by the Decentralization Act, 1914 (4 of 1914), s. 2 and the Sch., Pt. I, *post*, p. 652.

[<sup>3</sup>] Clause (aa) was inserted in s. 19 by the Chota Nagpur Encumbered Estates (Amendment) Act, 1884 (5 of 1884), s. 9, *post*, p. 393.

(Secs. 19A-21A.)

(d) the allowance of interest on each of the principal debts and liabilities so determined, from the date on which it was incurred down to the date of the determination, and on the aggregate amount of such debts and liabilities from the date of the determination down to the date of payment;

(e) the order of paying debts and liabilities so determined; and, generally, for the guidance of officers in all matters connected with the enforcement of this Act.

Such rules, when [1] \* \* \* \* \* published in the *Calcutta Gazette*, shall have the force of law.

Power to make orders as to education of holder's children. Penalty for disobedience.

[2] **19A.** (1) The Commissioner may make such orders as to him may seem fit in respect of the education of any child of a holder whose property is being managed under the provisions of this Act otherwise than on the application of the Deputy Commissioner.

(2) Any person who disobeys any order made by the Commissioner under sub-section (1) shall be liable, by order of the Deputy Commissioner, to a fine not exceeding five hundred rupees:

Provided that the Deputy Commissioner shall, before passing such order, hear any explanation or objection that may be made by such person.

Recovery of fines.

[2] **19B.** Any fine imposed by the Deputy Commissioner under section 14A or section 19A shall be recoverable as an arrear of land-revenue.

Power to appoint new Managers.

**20.** Whenever the Commissioner thinks fit, he may appoint any officer to be a Manager in the stead of any Manager appointed under this Act; and thereupon the property then vested under this Act in the former Manager shall become vested in the new Manager.

Every such new Manager shall have the same powers as if he had been originally appointed.

Managers to be public servants.

**21.** Every Manager appointed under this Act shall be deemed a public servant within the meaning of the Indian Penal Code.

Control by Board of Revenue.

[3] **21A.** All orders or proceedings of the Commissioner and of the Deputy Commissioner under this Act shall be subject to the supervision and control of the Board of Revenue; and the Board of Revenue may, if it thinks fit, revise, modify or reverse any such order or proceeding.

45 of  
1860.

[1] The words "approved by the Governor General in Council and" were repealed by the Decentralization Act, 1914 (4 of 1914), s. 2 and the Schedule, Part I, *post*, p. 672, and are omitted.

[2] Ss. 19A and 19B were inserted by the Chota Nagpur Encumbered Estates (Amendment) Act, 1909 (Ben. Act 3 of 1909), s. 15 in Vol. II of this Code.

[3] S. 21A was inserted by *ibid*, s. 16.

(Secs. 21B-24.)

[<sup>1</sup>]21B. During the period of management,—

Suits and  
appeals by  
and against  
holder,  
during  
management.

- (1) every suit or appeal by the holder shall be instituted in his name by the Manager;
- (2) in every pending suit or appeal in which the holder is plaintiff or defendant, the Manager shall be named as the representative of the holder for the purposes of the suit or appeal; and no application in any such suit or appeal shall be made to the Court on behalf of the holder except by the Manager;
- (3) no person other than the Manager shall be ordered to sue or be sued as next friend or guardian, or be named as guardian, of the holder, for a pending suit; and
- (4) the Court, upon application by the Manager or by any party to a suit, may order that the plaint or memorandum of appeal be amended so as to conform with the requirements of clause (1), or that the Manager be named as the representative of the holder as required by clause (2) of this section :

[<sup>2</sup>][Provided that, if in any suit or appeal both the plaintiff and defendant are holders of separate property managed by the same Manager, the Commissioner shall appoint for each holder an officer other than the Manager to be his representative for the purposes of such suit or appeal and references in this section to the Manager shall be deemed to be references to such representative.]

**22.** No suit or other proceeding shall be maintained against any person in respect of anything done by him *bonâ fide* pursuant to this Act. Bar of suits

**23.** [<sup>3</sup>][Subject to the provisions of section 21B] nothing in this Act precludes the Courts in Chota Nagpur having jurisdiction in suits relating to the succession to, or claims of maintenance from, any immovable property brought under the operation of this Act from entertaining and disposing of such suits; Saving of jurisdiction of Courts in Chota Nagpur in respect of certain suits.

**24.** [*Act not to affect powers conferred by Bengal Act 11 of 1869*]. *Rep. by Ben. Act 3 of 1909, s. 18.*

[1] S. 21B was inserted by the Chota Nagpur Encumbered Estates (Amendment) Act, 1909 (Ben. Act 3 of 1909), s. 16, in Vol. II of this Code.

[2] This proviso was added by the Chota Nagpur Encumbered Estates (Amendment) Act, 1924 (B. and O. Act 2 of 1924), s. 2, in Vol. III of this Code.

[3] These words, figures and letter in square brackets in s. 23 were prefixed by the Chota Nagpur Encumbered Estates (Amendment) Act, 1909 (Ben. Act 3 of 1909), s. 17, in Vol. III of this Code.

[4] The words "but to all such suits the Manager of such property shall be made a party" in s. 23, which were repealed by the same section, are omitted.

ACT 7 OF 1881.

[THE BENGAL CESS (AMENDMENT No. 1) ACT, 1881.][<sup>1</sup>]

(21st January, 1881.)

An Act to amend Bengal Act No. 9 of 1880 (the Cess Act, 1880). [<sup>2</sup>]

Preamble.

Whereas it is expedient to amend Bengal Act No. 9 of 1880 (the Cess Act, 1880); [<sup>2</sup>] It is hereby enacted as follows:—

Amend-  
ment of  
Bengal Act 9  
of 1880.

1. In the said Act, after section 63, the following sections shall be inserted and shall be deemed to have been so inserted on and from the date on which such Act came into force:—

64A, 64B. (*Printed in Vol. II of this Code.*)

[1] SHORT TITLE.—This short title was given by the Amending Act, 1903 (1 of 1903) Sch. I—*see post*, p. 625.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, *see* Gazette of India, 1881, Part V, p. 5; and for Proceedings in Council, *see ibid*, 1881, Supplement, pp. 15, 20, 97.

LOCAL EXTENT.—Since this Act merely makes textual amendments in Ben. Act 9 of 1880, and contains no “local extent” clause, its local extent must be taken to be the same as that of the Act of 1880 (*see* foot-note to that Act in Vol. II of this Code). Its operation is barred in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), *post*, p. 768.

It has been declared, by notification under the Scheduled Districts Act 1874 (14 of 1874), s. 3, to be in force in the districts of Hazaribagh, Ranchi, Palamau and Maubham and Pargana Dhalbhum in the district of Singhbhum in the Chota Nagpur Division—*see* Vol. IV, Part III.

[2] Printed in Vol. II of this Code.

ACT 25 OF 1881

(THE BANKI LAWS ACT, 1881.)<sup>[1]</sup>

(27th October, 1881.)

**An Act to amend the law in the Mahal of Banki.**

Whereas it has been determined to annex the territory comprised in Preamble the mahal of Banki to the district of Cuttack :

14 of 1874 And whereas the said territory forms portion of a scheduled district under the Scheduled Districts Act, 1874<sup>[2]</sup>

And whereas it is expedient that the law in force in the said territory should, on such annexation, be the same as the law in force in the district of Cuttack, and that the said territory should cease to be a portion of a scheduled district,

It is hereby enacted as follows :—

1. This Act may be called the Banki Laws Act, 1881. Short title.

2. All enactments which shall, on the first day of April, 1882, be in force in the district of Cuttack and not in the said territory shall be deemed to come into force in the said territory on that day : Laws of Cuttack to apply

And all enactments which shall on that day be in force in the said territory and not in the district of Cuttack shall be deemed to be repealed on and from that day in the said territory. Other laws repealed

3. [*Pending proceedings.*] *Rep. by the Amending Act, 1891 (12 of 1891).*

14 of 1874. 4. On and from the said first day of April, 1882, the said territory shall cease to be a portion of a scheduled district; and in Part III of the first schedule to the said Scheduled Districts Act, 1874, for the words “Mahals of Angul and Banki,” the words “Mahal of Angul” shall be substituted; Territory to cease to be a scheduled district.

\* \* \* \* \*

\*<sup>[3]</sup>

[1] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, *see* Gazette of India, 1881, Part V, p. 991, and for Proceedings in Council, *see* *ibid.*, Supplement, 1881, pp. 637, 647 and 1244.

LOCAL EXTENT.—This Act extends only to the mahal of Banki in the District of Cuttack—*see* the preamble.

[2] Printed in General Acts, 1873-86, Ed. 1928, p. 32.

[3] The remainder of s. 4 (relating to the repeal of references to Banki in Regulations 12 and 13 of 1805 and 11 of 1816), was repealed by the Amending Act, 1891 (12 of 1891), and is omitted.



ACT 5 OF 1884.

[THE CHOTA NAGPUR ENCUMBERED ESTATES (AMENDMENT) ACT, 1884.][<sup>1</sup>]

(26th February, 1884.)

An Act to amend the Chota Nagpur Encumbered Estates Act, 1876.<sup>[2]</sup>

Whereas it is expedient to amend the Chota Nagpur Encumbered Estates Act, 1876; [<sup>2</sup>] It is hereby enacted as follows:—

6 of 1876

Meaning of 'section' 1. "Section" in this Act means a section of the Chota Nagpur Encumbered Estates Act, 1876.<sup>[2]</sup>

Addition to section 2 of Act 6 of 1876. 2. To section 2 the following shall be added, namely:—  
(Printed *ante*, p. 376.)

Amendment of section 3. 3. In section 3, for the words "On such publication" the words "On the publication of an order under section 2" shall be substituted.

Addition to section 4. 4. To section 4 the following shall be added, namely:—

*The matter added to section 4 by this section has since been repealed—*

*by the Chota Nagpur Encumbered Estates (Amendment) Act, 1909 (Ben. Act 3 of 1909), s. 5(2), printed in Vol. II of this Code.*

Amendment of section 7. 5. In section 7, for the words "nine months" the words "six months" shall be substituted.

Amendment of section 12. 6. (1) In section 12, for the first clause the following shall be substituted:—

(Printed *ante*, p. 382.)

(2) In the same section, for the second clause the following shall be substituted, namely:—

(Printed *ante*, p. 382.)

(3) After the second clause of the same section the following shall be inserted, namely:—

(Printed *ante*, p. 383.)

[1] SHORT TITLE.—This short title was given by the Amending Act, 1903 (1 of 1903), Sch. I, *see post*, p. 625.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, *see* Gazette of India, 1883, Part V, p. 3, and for Proceedings in Council, *see ibid.*, Supplement, 1883, pp. 41, 45, Supplement, 1884, pp. 307, 379.

LOCAL EXTENT.—The local extent of this Act is the same as that of the Chota Nagpur Encumbered Estates Act, 1876, as to which *see* footnote [1], p. 374, *ante*

[2] Printed *ante*, p. 374.



ACT 8 OF 1885.

(THE BENGAL TENANCY ACT, 1885.)

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# ACT 8 OF 1885.

(THE BENGAL TENANCY ACT, 1885.)<sup>[1]</sup>

(14th March, 1885.)

## An Act to amend and consolidate certain enactments relating to the Law of Landlord and Tenant within the territories under the administration of the Lieutenant-Governor of Bengal.<sup>[2]</sup>

Whereas it is expedient to amend and consolidate certain enactments relating to the Law of Landlord and Tenant within the territories under

[1] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see *Gazette of India*, 1883, Part V, p. 129; for Report of Select Committee, see *ibid.*, 1884, Part V, p. 25; and for Proceedings in Council, see *ibid.*, 1883, Supplement, pp. 268, 831, 885, 996, 1519 and 2303; *ibid.*, 1884, Supplement, pp. 633 and 1405; *ibid.*, 1885, Supplement, pp. 269, 639, 743 and 776.

LOCAL EXTENT.—This Act [except s. 31A] extends to the whole of the former Province of Bengal except the town of Calcutta, the Division of Orissa, and the Scheduled Districts—see s. 1 (3), *post*, p. 403.

Portions of the Act are in force in the Sonthal Parganas, see Vol. IV, Part IV.

The application of the Act is barred in the Angul District by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 768.

This Act has been repealed for the Orissa Division by the Orissa Tenancy Act, 1913 (B. and O. Act 2 of 1913), s. 2 and Sch. I, in Vol. III of this Code.

Section 31A (1) applies only to districts or parts of districts to which it is extended by the Local Government by notification in the local official Gazette. It has been extended to the Government Estate Tausir Barhia in the district of Monghyr, see B. and O. Local Statutory Rules and Orders, Vol. I, Part IV.

COMMENCEMENT.—Act 8 of 1885 was declared to come into force on the 1st November, 1885, by a notification dated the 4th September, 1885—see *Calcutta Gazette*, 9th *idem*, Part I, p. 874. That notification was, however, modified as to the commencement of ss. 61 and 64 and Chapter XII by Act 20 of 1885, s.1, which enacted that those portions of the Act should come into force on such date, not later than the 1st day of February, 1886, as the Local Government might appoint, or, if no such date was appointed then on the 1st February, 1886. (No such date was appointed.) Act 20 of 1885 was repealed by the Amending Act, 1891 (12 of 1891).

OTHER ENACTMENTS CONTAINING PROVISIONS AS TO LANDLORD AND TENANT.—For a comprehensive view of the several enactments relating to landlord and tenant which are printed in this Code, see the head "Landlord and Tenant" and cross-references therefrom, in the index at the end of Vol. IV of this Code. Other enactments on the subject which are in force in Bihar and Orissa are—

- |   |  |
|---|--|
| (1) the Mesne Profits and Improvements Act, 1855 (11 of 1855) :                               | printed in General Acts, 1834—72, Ed. 1928, p. 69. |
| (2) the Opium Act, 1878 (1 of 1878). ss. 4, 5, 9, 11, 22 (cultivation of the poppy) :         | ditto, 1873—86, Ed. 1928, p. 111.                  |
| (3) the Transfer of Property Act, 1882 (4 of 1882), Ch. V (leases of immovable property) :    | ditto, 1873—86, Ed. 1928, p. 331.                  |
| (4) the Cantonments (House-accommodation) Act, 1923 (VI of 1923) ; and                        | ditto, 1921—1923, Ed. 1928, p. 202.                |
| (5) the Code of Civil Procedure (5 of 1908), ss. 4 and 5 (suits between landlord and tenant). |  |

[2] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

(Secs. 1-2.)

the administration of the Lieutenant-Governor of Bengal;[<sup>1</sup>] It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Bengal Tenancy Act, 1885.

(2) [It shall come into force on such date[<sup>2</sup>](hereinafter called the commencement of this Act) as the Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the local official Gazette, appoint in this behalf.]

(3) It shall extend by its own operation to all the territories for the time being under the administration of the Lieutenant-Governor of Bengal,[<sup>1</sup>] except

[the town of Calcutta,]

[<sup>3</sup>] [any area constituted a Municipality under the provisions of the Bengal Municipal Act, 1884, [<sup>4</sup>] or part thereof, and Ben Act 3 specified in a notification [<sup>5</sup>] in this behalf by the Local of 1884. Government,]

the Division of Orissa, and

the scheduled Districts specified in the third part of the First Schedule of the Scheduled Districts Act, 1874[<sup>6</sup>];

14 of 1874

and the Local Government may, with the previous sanction of the Governor-General in Council, by notification in the local official Gazette, extend the whole or any portion of this Act to the Division of Orissa or any part thereof.

[<sup>7</sup>][*Explanation.*—The words “ the town of Calcutta ” mean, subject to the exclusion or inclusion of any local area by notification under s. 637 of the[<sup>8</sup>] Calcutta Municipal Act, 1899, the area described in Schedule 1 to that Act.] Ben Act 3 of 1899.

2.(1) The enactments specified in Schedule I hereto annexed are repealed in the territories to which this Act extends by its own operation.

[<sup>9</sup>] (2) [When this Act is extended to the Division of Orissa or any part thereof, such of those enactments as are in force in that Division or

[1] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

[2] See foot-note headed “ Commencement,” ante, p. 402.

[3] These words in square brackets in s. 1 (3) were inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 3 (1), in Vol. II of this Code.

[4] This Act was repealed and re-enacted by the Bihar and Orissa Municipal Act, 1922 (B. & O. Act 7 of 1922), in Vol. III of this Code.

[5] As to the effect of such notifications, see s. 19 (2), post, p. 413.

[6] Printed in General Acts, 1873-86, Ed. 1928, p. 32.

[7] This *Explanation* was added to s. 1 (3) by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 3 (2), in Vol. II of this Code.

[8] The Calcutta Municipal Act, 1899 (Ben. Act 3 of 1899), has been repealed and re-enacted by the Calcutta Municipal Act, 1923 (Ben. Act 3 of 1923) printed in the Supplement to the Bengal Code.

[9] This has become nugatory—see the Orissa Tenancy Act, 1913 (B. and O. Act 2 of 1913), in Vol. III of this Code.

## (Sec. 3.)

part, or, where a portion only of this Act is so extended, so much of them as is inconsistent with that portion shall be repealed in that Division or part.]

(3) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof.

(4) The repeal of any enactment by this Act shall not revive any right, privilege, matter or thing not in force or existing at the commencement of this Act.

## Definitions

3. In this Act, unless there is something repugnant in the subject or context,—

(1) "Estate" means land included under one entry in any of the general registers of revenue-paying lands and revenue-free lands, prepared and maintained under the law for the time being in force by the Collector of a district, and includes Government *khas mahals* and revenue-free lands not entered in any register;

(2) "Proprietor" means a person owning, whether in trust or for his own benefit, an estate or a part of an estate;

(3) "Tenant" means a person who holds land under another person, and is, or but for a special contract would be, liable to pay rent for that land to that person;

(4) "Landlord" means a person immediately under whom a tenant holds, and includes the Government;

(5) "Rent" means whatever is lawfully payable or deliverable in money or kind by a tenant to his landlord on account of the use or occupation of the land held by the tenant:

in sections 53 to 68, both inclusive, sections 72 to 75, both inclusive, Chapter XII,<sup>[1]</sup> [Chapter XIV] and Schedule III of this Act. "rent" includes also money recoverable under any enactment for the time being in force as if it was rent;

(6) "Pay," "payable" and "payment," used with reference to rent, include "deliver," "deliverable" and "delivery";

(7) "Tenure" means the interest of a tenure-holder or an under-tenure-holder;

(8) "permanent tenure" means a tenure which is heritable and which is not held for a limited time;

[1] The word and figures "Chapter XIV" in clause (5) of s. 3 were inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 4 (1), in Vol. II of this Code.

## (Sec. 3)

(9) 'Holding' means a parcel or parcels of land held by a *rayat* and forming the subject of a separate tenancy,

[1] (10) Village means the area defined, surveyed and recorded as a distinct and separate village in—

(a) the general land-revenue survey which has been made of the Province of Bengal, or

(b) any survey made by the Government which may be adopted by notification in the Calcutta Gazette as defining villages for the purposes of this clause in any specified area,

and, where a survey has not been made by, or under the authority of the Government such area as the Collector may, with the sanction of the Board of Revenue, by general or special order,[2] declare to constitute a village

(11) Agricultural year ' means, where the Bengali year prevails, the year commencing on the first day of *Baisakh*,[3] where the *Fash* or *Amlī* year prevails the year commencing on the first day of *Asvin*,[4] and, where any other year prevails for agricultural purposes, that year,

(12) 'Permanent Settlement' means the Permanent Settlement of [Bengal] Bihar and Orissa, made in the year 1793,

(13) Succession " includes both intestate and testamentary succession,

(14) Signed " includes 'marked' when the person making the mark is unable to write his name, it also includes "stamped" with the name of the person referred to,

(15) 'Prescribed' means prescribed from time to time by the Local Government by notification in the official Gazette,

(16) "Collector" means the Collector of a district or any other officer appointed[5] by the Local Government to discharge any of the functions of a Collector under this Act,

(17) "Revenue-officer," in any provision of this Act, includes any officer whom the Local Government may appoint,[6] by name or by virtue

[1] It was substituted for the original clause (10) by the Bengal Tenancy (Amendment) Act, 1907 (Ben Act I of 1907), s 4 (2), in Vol II of this Code

[2] For a list of orders made under the last paragraph of s 3 (10), see the Bihar and Orissa Local Statutory Rules and Orders, Vol I, Pt IV

[3] The month of *Baisakh* corresponds with the last part of April and the first part of May

[4] The month of *Asvin* corresponds with the last part of September and the first part of October

[5] For a list of orders made under s 3 (16), see the Bihar and Orissa Local Statutory Rules and Orders, Vol I, Part IV

[6] For an order made under s 3 (17), see *ibid.*

(Secs. 4-5.)

of his office, to discharge any of the functions of a Revenue-officer under that provision;

(18) "Registered" means registered under any Act<sup>[1]</sup> for the time being in force for the registration of documents.<sup>[2]</sup>

## CHAPTER II.

## CLASSES OF TENANTS.

Classes of tenants.

4. There shall be, for the purposes of this Act, the following classes of tenants, (namely) :—

(1) tenure-holders, including under-tenure-holders.

(2) *raiyats*, and

(3) under-*raiyats*, that is to say, tenants holding, whether immediately or mediately, under *raiyats*;

and the following classes of *raiyats*, (namely) :—

(a) *raiyats* holding at fixed rates, which expression means *raiyats* holding either at a rent fixed in perpetuity or at a rate of rent fixed in perpetuity,

(b) occupancy-*raiyats*, that is to say, *raiyats* having a right of occupancy in the land held by them, and

(c) non-occupancy-*raiyats*, that is to say, *raiyats* not having such a right of occupancy.

Meaning of "tenure-holder" and "*raiyats*."

5. (1) "Tenure-holder" means primarily a person who has acquired from a proprietor or from another tenure-holder a right to hold land for the purpose of collecting rents or bringing it under cultivation, by establishing tenants on it, and includes also the successors in interest of persons who have acquired such a right.

(2) "*Raiyat*" means primarily a person who has acquired a right to hold land for the purpose of cultivating it by himself, or by members of

[1] See now the Indian Registration Act, 1908 (16 of 1908), in General Acts, 1898—1909, Ed. 1928, p. 431.

[2] Further definitions are given in the following sections, namely :—

s. 5 ("tenure-holder" and "*raiyat*");

s. 20 ("settled *raiyat*");

s. 41 ("non-occupancy-*raiyat*");

s. 47 ("admitted to occupation");

s. 76 ("improvement");

s. 160 ("protected interests");

s. 161 ("incumbrance" and "registered and notified incumbrance");

## (Secs. 6-7.)

his family or by hired servants, or with the aid of partners, and includes also the successors in interest of persons who have acquired such a right.

*Explanation.*—Where a tenant of land has the right to bring it under cultivation, he shall be deemed to have acquired a right to hold it for the purpose of cultivation, notwithstanding that he uses it for the purpose of gathering the produce of it or of grazing cattle on it.

(3) A person shall not be deemed to be a *raiyat* unless he holds land either immediately under a proprietor or immediately under a tenure-holder.

(4) In determining whether a tenant is a tenure-holder or a *raiyat*, the Court shall have regard to—

(a) local custom; and

(b) the purpose for which the right of tenancy was originally acquired.

(5) Where the area held by a tenant exceeds one hundred standard *bighas*, the tenant shall be presumed to be a tenure-holder until the contrary is shown.

## CHAPTER III.

## TENURE-HOLDERS.

*Enhancement of rent.*

6. Where a tenure has been held from the time of the Permanent Settlement, its rent shall not be liable to enhancement except on proof—

(a) that the landlord under whom it is held is entitled to enhance the rent thereof either by local custom or by the conditions under which the tenure is held, or

(b) that the tenure-holder, by receiving reductions of his rent, otherwise than on account of a diminution of the area of the tenure, has subjected himself to the payment of the increase demanded, and that the lands are capable of affording it.

Tenure held since Permanent Settlement liable to enhancement only in certain cases.

7. (1) Where the rent of a tenure-holder is liable to enhancement, it may, subject to any contract between the parties, be enhanced up to the limit of the customary rate payable by persons holding similar tenures in the vicinity.

Limits of enhancement of rent of tenures.



## (Secs. 8-10.)

(2) Where no such customary rate exists, it may, subject as aforesaid, be enhanced up to such limit as the Court thinks fair and equitable.

(3) In determining what is fair and equitable, the Court shall not leave to the tenure-holder as profit less than 10 *per centum* of the balance which remains after deducting from the gross rents payable to him the expenses of collecting them and shall have regard to—

(a) the circumstances under which the tenure was created, for instance, whether the land comprised in the tenure, or a great portion of it, was first brought under cultivation by the agency or at the expense of the tenure-holder or his predecessors in interest, whether any fine or premium was paid on the creation of the tenure, and whether the tenure was originally created at a specially low rent for the purpose of reclamation; and

(b) the improvements, if any, made by the tenure-holder or his predecessors in interest.

(4) If the tenure-holder himself occupies any portion of the land included in the area of his tenure, or has made a grant of any portion of the land either rent-free or at a beneficial rent, a fair and equitable rent shall be calculated for that portion and included in the gross rents aforesaid.

Power to  
order  
gradual  
enhance-  
ment.

8. The Court may, if it thinks that an immediate increase of rent would produce hardship, direct that the enhancement shall be gradual; that is to say, that the rent shall increase yearly by degrees, for any number of years not exceeding five, until the limit of the enhancement allowed has been reached.

Rent once  
enhanced  
may not be  
altered for  
fifteen  
years.

9. When the rent of a tenure-holder has been enhanced by the Court or by contract, it shall not be again enhanced by the Court during the fifteen years next following the date on which it has been so enhanced.

*Other incidents of tenures.*

Permanent  
tenure-  
holder not  
liable to  
ejectment.

10. A holder of a permanent tenure shall not be ejected by his landlord except on the ground that he has broken a condition on breach of which he is, under the terms of a contract between him and his landlord, liable to be ejected:

Provided that where the contract is made after the commencement of this Act, the condition is consistent with the provisions of this Act.

(Secs. 11-12.)

11. Every permanent tenure shall, subject to the provisions of this Act, be capable of being transferred and bequeathed in the same manner and to the same extent as other immovable property.

Transfer and transmission of permanent tenure.

[<sup>1</sup>]12. (1) A transfer of a permanent tenure by sale, gift or mortgage (other than a transfer by a sale in execution of a decree or by summary sale under any law relating to *patni* or other tenures) can be made only by a registered instrument.

Voluntary transfer of permanent tenure.

(2) A registering officer shall not register any instrument purporting or operating to transfer by sale, gift or [<sup>2</sup>][usufructuary] mortgage a permanent tenure unless there is paid to him, in addition to any fees payable under the Act for the time being in force for the registration of documents, a process-fee of the prescribed amount and a fee (hereinafter called "the landlord's fee") of the following amount, namely :—

(a) when rent is payable in respect of the tenure, a fee of two *per centum* on the annual rent of the tenure: provided that no such fee shall be less than one rupee or more than one hundred rupees; and

(b) when rent is not payable in respect of the tenure, a fee of two rupees;

[<sup>3</sup>][together with the costs necessary for the transmission of the landlord's fee to the landlord.]

(3) When the registration of any such instrument is complete, the registering officer shall send to the Collector the landlord's fee [<sup>4</sup>][the costs necessary for the transmission of the same] and a notice of the transfer and registration in the prescribed form, and the Collector shall cause the fee to be [<sup>5</sup>][transmitted] to, and the notice to be served on, the landlord [<sup>6</sup>] [named in the notice] in the prescribed manner.

[1] As to the validation of certain transfers made under ss. 12, 13, 17 or 18, see the Bengal Tenancy (Validation and Amendment) Act, 1903 (Ben. Act 1 of 1903), s. 1, in Vol. II of this Code; and as to payment of fees under those sections, see *ibid.*, s. 2.

[2] This word "usufructuary" in s. 12 (2) was inserted by the Bengal Tenancy (Amendment) Act, 1886 (8 of 1886), s. 1, *post*, p. 511.

[3] These words in square brackets were added to s. 12 (2) by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 5 (1), in Vol. II of this Code.

[4] The words "the costs necessary for the transmission of the same", in s. 12 (3), were inserted by *ibid.*, s. 5(2).

[5] The word "transmitted" in s. 12 (3) was substituted for the word "paid", by *ibid.*, s. 5 (2) (ii).

[6] The words "named in the notice" in s. 12 (3) were inserted by *ibid.*, s. 5 (2) (iii).

(Secs 13-11.)

Transfer of  
permanent  
tenure by  
sale in exe-  
cution of  
decree  
other than  
decree for  
rent.

[<sup>1</sup>]13. (1) When a permanent tenure is sold in execution of a decree other than a decree for arrears of rent due in respect thereof, [<sup>2</sup>][or when a mortgage of a permanent tenure, other than an usufructuary mortgage thereof, is foreclosed,] the Court shall, before confirming the sale under section 312[<sup>3</sup>] of the Code of Civil Procedure, [<sup>4</sup>][or making a decree or order absolute for the foreclosure,] require the purchaser [<sup>5</sup>][or mortgagee] to pay into Court the landlord's fee prescribed by the last foregoing section, [<sup>6</sup>][together with the costs necessary for its transmission to the landlord,] and such further fee for service of notice of the sale [<sup>7</sup>][or final foreclosure] on the landlord as may be prescribed. 14 of 1882.

(2) When the sale has been confirmed, [<sup>8</sup>][or the decree or order absolute for the foreclosure has been made,] the Court shall send to the Collector the landlord's fee, [<sup>9</sup>][the costs necessary for the transmission of the same,] and a notice of the sale [<sup>10</sup>][or final foreclosure] in the prescribed form, and the Collector shall cause the fee to be [<sup>11</sup>][transmitted] to, and the notice to be served on, the landlord [<sup>12</sup>][named in the notice] in the prescribed manner.

14. (*Transfer of permanent tenure by sale in execution of decree for rent.*) *Rep. in Western Bengal by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 2 and in Eastern Bengal by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 2.*

[1] As to the validation of certain transfers made under ss. 12, 13, 17 or 18, see the Bengal Tenancy (Validation and Amendment) Act, 1903 (Ben. Act 1 of 1903), s. 1, in Vol. II of this Code; and as to payment of fees under those sections, see *ibid.*, s. 2.

[2] The words in square brackets in s. 13 (1) were inserted by the Bengal Tenancy (Amendment) Act, 1886 (8 of 1886), s. 2 (1), *post*, p. 511.

[3] Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (5 of 1908), and this reference should now be taken to be made to rule 92 in Order XXI in Sch. I to that Code—see s. 158 thereof.

[4] The words in square brackets in s. 13 (1) were inserted by the Bengal Tenancy (Amendment) Act, 1886 (8 of 1886), s. 2 (2), *post*, p. 511.

[5] The words "or mortgagee" in s. 13 (1) were inserted by *ibid.*, s. 2 (3).

[6] The words "together with the costs necessary for its transmission to the landlord", in s. 13 (1), were inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 6 (1), in Vol. II of this Code.

[7] The words "or final foreclosure" in s. 13 (1) were inserted by the Bengal Tenancy (Amendment) Act, 1886 (8 of 1886), s. 2 (4), *post*, p. 511.

[8] The words in square brackets in s. 13 (2) were inserted by *ibid.*, s. 2 (5).

[9] The words "the costs necessary for the transmission of the same", in s. 13 (2), were inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 5 (2) (i), in Vol. II of this Code.

[10] The words "or final foreclosure" in s. 13 (2) were inserted by the Bengal Tenancy (Amendment) Act, 1886 (8 of 1886), s. 2 (6), *post*, p. 511.

[11] The word "transmitted" in s. 13 (2) was substituted for the word "paid" by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 5 (2) (ii), in Vol. II of this Code.

[12] The words "named in the notice" in s. 13 (2) were inserted by *ibid.*, s. 5 (2) (iii).

(Secs 15-18.)

[<sup>1</sup>]15. When a succession to a permanent tenure takes place, the person succeeding shall give notice of the succession to the Collector in the prescribed form, and shall pay to the Collector the proscribed fee for the service of the notice on the landlord and the landlord's fee prescribed by section 12, [<sup>2</sup>][together with the costs necessary for its transmission to the landlord], and the Collector shall cause the landlord's fee to be [<sup>3</sup>][transmitted] to and the notice to be served on, the landlord [<sup>4</sup>][named in the notice] in the prescribed manner

Succession to permanent tenure

16. A person becoming entitled to a permanent tenure by succession shall not be entitled to recover by suit, distraint or other proceeding any rent payable to him as the holder of the tenure, until the Collector has received the notice, [<sup>5</sup>][fees and costs] referred to in the last foregoing section.

Bar to recovery of rent, pending notice of succession

[<sup>6</sup>]17. Subject to the provisions of section 88, the foregoing sections shall apply to the transfer of, or succession to, a share in a permanent tenure.

Transfer of, and succession to, share in permanent tenure.

#### CHAPTER IV.

##### RAIYATS HOLDING AT FIXED RATES.

[<sup>1</sup>], [<sup>6</sup>]18. A *raiyat* holding at a rent, or rate of rent, fixed in perpetuity—

Incidents of holding at fixed rates.

(a) shall be subject to the same provisions with respect to the transfer of, and succession to, his holding as the holder of a permanent tenure, and

(b) shall not be ejected by his landlord, except on the ground that he has broken a condition consistent with this Act, and on breach of which he is, under the terms of a contract between him and his landlord, liable to be ejected.

[1] As to payment of fees under ss. 15 and 18 to the Registrar of Mutations under the Land Records Maintenance Act, 1895 (Ben. Act 3 of 1895), see s. 20 of that Act, in Vol. II of this Code.

[2] The words "together with the costs necessary for its transmission to the landlord" in s. 15, were inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 6 (1), in Vol. II of this Code.

For further provisions as to landlords' fees, see Chap. IV 4. *post*, p. 412.

[3] The word "transmitted", in s. 15, was substituted for the word "paid" by the Bengal Tenancy Act, 1907 (Ben. Act 1 of 1907), s. 6 (2) (i), in Vol. II of this Code.

[4] The words "named in the notice," in s. 15, were inserted by *ibid.*, s. 6 (2) (ii).

[5] The words "fees and costs", in s. 16, were substituted for the words "and fees", by *ibid.*, s. 7.

[6] As to the validation of transfers made under s. 17 or 18, see foot-note [1] on p. 410, *ante*.

As to the forfeiture of fees deposited under ss. 12, 13, 15, 17 and 18(a), see s. 18C. *post*, p. 412, and s. 189 (2), *post*, p. 501.

(Secs. 18A-19.)

[<sup>1</sup>] CHAPTER IVA.PROVISIONS AS TO TRANSFERS OF TENURES AND HOLDINGS AND  
LANDLORD'S FEES.

Saving as to  
statements  
in instru-  
ments of  
transfer  
where land-  
lord no  
party.

**18A.** Nothing contained in any instrument of transfer to which the landlord is not a party shall be evidence against the landlord of the permanence, amount or fixity of rent, area, transferability or any incident of any tenure or holding referred to in such instrument.

Saving as to  
acceptance  
of land-  
lord's fees.

**18B.** The acceptance by a landlord of any landlord's fee payable under Chapter III or Chapter IV in respect of any tenure or holding shall not operate—

(a) as an admission as to the permanence, amount or fixity of rent, area, transferability or any incident of such tenure or holding, or

(b) as an express consent under section 88 to the division of such tenure or holding, or to the distribution of the rent payable in respect thereof.

Forfeiture  
of unclaimed  
landlord's  
fees

**18C.** All landlord's fees paid under Chapter III or Chapter IV which are held in deposit on or after the commencement of the Bengal Tenancy (Amendment) Act, 1907,<sup>[2]</sup> may, unless accepted or claimed by the landlord within three years from such commencement or from the date of the service of the notice prescribed in section 12, section 13 or section 15 (as the case may be), whichever is later, be forfeited to the Government. Ben. Act 1 of 1907.

[<sup>3</sup>] CHAPTER V.

## OCCUPANCY-RAIYATS.

*General.*

Continuance  
of existing  
occupancy  
rights.

[<sup>4</sup>]**19.** (1) Every *raiayat* who, immediately before the commencement of this Act<sup>[5]</sup> or the Bengal Tenancy (Amendment) Act, 1907,<sup>[2]</sup> has, by the operation of any enactment, by custom, or otherwise, a right of occupancy in any land, shall, when this Act<sup>[5]</sup> or the Bengal Tenancy

[1] Chapter IVA was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 8, in Vol. II of this Code.

[2] Ben. Act 1 of 1907 is printed in Vol. II of this Code.

[3] Chapter V does not confer a right of occupancy in certain lands—see s. 116, *post*, p. 467.

[4] The original s. 19 was re-numbered 19 (1) by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 9 (1), in Vol. II of this Code.

[5] The words and figures "or the Bengal Tenancy (Amendment) Act, 1907," in this s. 19, were inserted by *ibid*, s. 9 (2).

## (Secs. 20-21.)

1 (Amendment) Act, 1907 [1] comes into force, have a right of occupancy in that land.

[2](2) The exclusion from the operation of this Act, by a notification under sub-section (3) of section 1, of any area constituted a Municipality  
3 under the provisions of the Bengal Municipal Act, 1884[3], or of any part of such area or the inclusion of any area in the town of Calcutta  
3 by notification under section 637 of the Calcutta Municipal Act, 1899,[4] shall not affect any right, obligation or liability previously acquired, incurred or accrued in reference to such area

**20.** (1) Every person who, for a period of twelve years, whether wholly or partly before or after the commencement of this Act, has continuously held as a *raiyat* land situate in any village, whether under a lease or otherwise, shall be deemed to have become, on the expiration of that period, a settled *raiyat* of that village. Definition of "settled raiyat".

(2) A person shall be deemed, for the purposes of this section, to have continuously held land in a village notwithstanding that the particular land held by him has been different at different times.

(3) A person shall be deemed, for the purposes of this section, to have held as a *raiyat* any land held as a *raiyat* by a person whose heir he is.

(4) Land held by two or more co-sharers as a *raiyati* holding shall be deemed, for the purposes of this section, to have been held as a *raiyat* by each such co-sharer.

(5) A person shall continue to be a settled *raiyat* of a village as long as he holds any land as a *raiyat* in that village and for one year thereafter.

(6) If a *raiyat* recovers possession of land under section 87, he shall be deemed to have continued to be a settled *raiyat* notwithstanding his having been out of possession more than a year.

(7) If, in any proceeding under this Act, it is proved or admitted that a person holds any land as a *raiyat*, it shall, as between him and the landlord under whom he holds the land, be presumed, for the purposes of this section, until the contrary is proved or admitted, that he has for twelve years continuously held that land or some part of it as a *raiyat*.

**21.** (1) Every person who is a settled *raiyat* of a village within the meaning of the last foregoing section shall have a right of occupancy in all land for the time being held by him as a *raiyat* in that village. Settled raiyat to have occupancy rights.

[1] Ben. Act 1 of 1907 is printed in Vol. II of this Code.

[2] This sub-section (2) was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 9 (3), in Vol. II of this Code.

[3] This Act was repealed and re-enacted by the Bihar and Orissa Municipal Act, 1922 (B. & O. Act 7 of 1922), printed in Vol. III of this Code.

[4] This Act was repealed and re-enacted by the Calcutta Municipal Act, 1923.

## (Sec. 22.)

(2) Every person who, being a settled *raiyat* of a village within the meaning of the last foregoing section, held land as a *raiyat* in that village at any time between the second day of March, 1883, and the commencement of this Act, shall be deemed to have acquired a right of occupancy in that land under the law then in force; but nothing in this sub-section shall affect any decree or order passed by a Court before the commencement of this Act.

Effect of  
acquisition  
of occu-  
pancy-right  
by land-  
lord.

**22.** (1) When the immediate landlord of an occupancy-holding is a proprietor or permanent tenure-holder, and the entire interests of the landlord and the *raiyat* in the holding become united in the same person by transfer, succession or otherwise,<sup>[1]</sup> [such person shall have no right to hold the land as a tenant, but shall hold it as a proprietor or permanent tenure-holder (as the case may be)]; but nothing in this sub-section shall prejudicially affect the rights of any third person.

(2) If the occupancy-right in land is transferred to a person jointly interested in the land as proprietor or permanent tenure-holder,<sup>[2]</sup> [he shall be entitled to hold the land subject to the payment to his co-proprietors or joint permanent tenure-holders of the shares of the rent which may be from time to time payable to them; and if such transferee sub-lets the land to a third person, such third person shall be deemed to be a tenure-holder or a *raiyat*, as the case may be. in respect of the land.

*Illustration.*—A, a co-sharer landlord, purchases the occupancy-holding of a *raiyat* X, A is entitled himself to hold the land on payment to his co-sharers of the shares of the rent payable to them in respect of the holding. A sub-lets the land to Y, who takes it for the purpose of establishing tenants on it; Y becomes a tenure-holder in respect of the land. Or A sub-lets it to Z, who takes it for the purpose of cultivating it himself: Z becomes a *raiyat* in respect of the land.]

(3) A person holding land as an *ijāradar* or farmer of rents shall not, while so holding, acquire, <sup>[3]</sup> [by purchase or otherwise], a right of occupancy in any land comprised in his *ijāra* or farm.

*Explanation.*—A person having a right of occupancy in land does not lose it by subsequently becoming jointly interested in the land as proprietor or permanent tenure-holder, or by subsequently holding the land in *ijāra* or farm.

[1] These words in square brackets in s. 22 (1) were substituted for the words "the occupancy-right shall cease to exist," by the Bengal Tenancy (Amendment) Act. 1907 (Ben. Act 1 of 1907), s. 10 (a), in Vol. II of this Code.

[2] The portion of s. 22 (2) which is printed in square brackets on this page was substituted for the words "it shall cease to exist, but nothing in this sub-section shall prejudicially affect the rights of any third person," by *ibid.*, s. 10 (b).

[3] These words in square brackets in s. 22 (3) were inserted by *ibid.*, s. 10 (c).

## (Secs. 23-29.)

*Incidents of occupancy-right.*

**23.** When a *raiyyat* has a right of occupancy in respect of any land, he may use the land in any manner which does not materially impair the value of the land or render it unfit for the purposes of the tenancy; but shall not be entitled to cut down trees in contravention of any local custom.

Rights of  
*raiyyat* in  
respect of  
use of land

**24.** An occupancy-*raiyyat* shall pay rent for his holding at fair and equitable rates.

Obligation  
of *raiyyat* to  
pay rent.

**25.** An occupancy-*raiyyat* shall not be ejected by his landlord from his holding, except in execution of a decree for ejectment passed on the ground—

Protection  
from ejection  
except  
on specified  
grounds.

(a) that he has used the land comprised in his holding in a manner which renders it unfit for the purposes of the tenancy, or

(b) that he has broken a condition consistent with the provisions of this Act, and on breach of which he is, under the terms of a contract between himself and his landlord, liable to be ejected.

**26.** If a *raiyyat* dies intestate in respect of a right of occupancy, it shall, subject to any custom to the contrary, descend in the same manner as other immovable property: provided that in any case in which under the law of inheritance to which the *raiyyat* is subject his other property goes to the Crown, his right of occupancy shall be extinguished.

Devolution  
of occupancy  
right  
on death.

*Enhancement of rent.*

**27.** The rent for the time being payable by an occupancy-*raiyyat* shall be presumed to be fair and equitable until the contrary is proved.

Presump-  
tion as to  
fair and  
equitable  
rent.

**28.** Where an occupancy-*raiyyat* pays his rent in money, his rent shall not be enhanced except as provided by this Act.

Restriction  
on enhance-  
ment of  
money-  
rents.

**29.** The money-rent of an occupancy-*raiyyat* may be enhanced by contract, subject to the following conditions:—

Enhance-  
ment of rent  
by contract.

(a) the contract must be in writing and registered;

(b) the rent must not be enhanced so as to exceed by more than two annas in the rupee the rent previously payable by the *raiyyat*;

(c) the rent fixed by the contract shall not be liable to enhancement during a term of fifteen years from the date of the contract:



## (Sec. 30.)

Provided as follows—

- (i) Nothing in clause (a) shall prevent a landlord from recovering rent at the rate at which it has been actually paid for a continuous period of not less than three years immediately preceding the period for which the rent is claimed.
- (ii) Nothing in clause (b) shall apply to a contract by which a *raiyat* binds himself to pay an enhanced rent in consideration of an improvement which has been or is to be effected in respect of the holding by, or at the expense of, his landlord, and to the benefit of which the *raiyat* is not otherwise entitled; but an enhanced rent fixed by such a contract shall be payable only when the improvement has been effected, and, except when the *raiyat* is chargeable with default in respect of the improvement, only so long as the improvement exists and substantially produces its estimated effect in respect of the holding.
- (iii) When a *raiyat* has held his land at a specially low rate of rent in consideration of cultivating a particular crop for the convenience of the landlord, nothing in clause (b) shall prevent the *raiyat* from agreeing, in consideration of his being released from the obligation of cultivating that crop, to pay such rent as he may deem fair and equitable.

Enhance-  
ment of rent  
by suit.

**30.** The landlord of a holding held at a money-rent by an occupancy-*raiyat* may, subject to the provisions of this Act, institute a suit to enhance the rent on one or more of the following grounds (namely) :—

- [<sup>1</sup>] [(a) that the rate of rent paid by the *raiyat* is below the prevailing rate paid by occupancy-*rai-yats* for land of a similar description and with similar advantages in the same village or in neighbouring villages, and that there is no sufficient reason for his holding at so low a rate;]
- (b) that there has been a rise in the average local prices of staple food-crops during the currency of the present rent;
- (c) that the productive powers of the land held by the *raiyat* have been increased by an improvement effected by, or at the expense of, the landlord during the currency of the present rent;

[1] This clause (a) in s. 30 was substituted for the original clause (a) by the Bengal Tenancy (Amendment) Act, 1898 (Ben. Act 3 of 1898), s. 2, in Vol. II of this Code. The original clause ran thus :—

“(a) that the rate of rent paid by the *raiyat* is below the prevailing rate paid by occupancy-*rai-yats* for land of a similar description and with similar advantages in the same village, and that there is no sufficient reason for his holding at so low a rate.”

## (Sec. 31.)

- (d) that the productive powers of the land held by the *raiyat* have been increased by fluvial action.

*Explanation.*—"Fluvial action" includes a change in the course of a river rendering irrigation from the river practicable when it was not previously practicable

31. Where an enhancement is claimed on the ground that the rate of rent paid is below the prevailing rate—

Rules as to  
enhancement  
on ground  
of prevail-  
ing rate.

- (a) in determining what is the prevailing rate the Court shall have regard to the rates generally paid during a period of not less than three years before the institution of the suit, and shall not decree an enhancement unless there is a substantial difference between the rate paid by the *raiyat* and the prevailing rate found by the Court;
- (b) if in the opinion of the Court the prevailing rate of rent cannot be satisfactorily ascertained without a local inquiry, the Court may direct that a local inquiry be held under Chapter XXV of the Code of Civil Procedure<sup>[1]</sup> by such Revenue-officer as the Local Government may authorize in that behalf by rules made under section 392 of the said Code;<sup>[2]</sup>
- (c) in determining under this section the rate of rent payable by a *raiyat*, his caste shall not be taken into consideration, unless it is proved that by local custom caste is taken into account in determining the rate; and, whenever it is found that by local custom any description of *raiyats* hold land at favourable rates of rent, the rate shall be determined in accordance with that custom;
- (d) in ascertaining the prevailing rate of rent the amount of any enhancement authorized on account of a landlord's improvement shall not be taken into consideration;
- [<sup>3</sup>] (e) if a favourable rate has been determined under clause (c) for any description of *raiyats*, such rate may, if the Court thinks fit, be left out of consideration in ascertaining the prevailing rate;
- [<sup>3</sup>] (f) if the holding is held at a lump rental, the determination of the rent to be paid may be made by ascertaining the

[1] Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (5 of 1908), and this reference should now be taken to be made to s. 78 of, and Order XXVI in Sch. I to, that Code—see s. 158 thereof.

[2] This reference should now be taken to be made to rule 9 in Order XXVI in Sch. I to the Code of Civil Procedure, 1908 (5 of 1908)—see s. 158 thereof.

[3] Clauses (e) and (f) were inserted in s. 31 by the Bengal Tenancy (Amendment) Act, 1898 (Ben. Act 3 of 1898), s. 3, in Vol. II of this Code.

## (Sec. 31A.)

different classes of land comprised within the holding, and applying to the area of each class the prevailing rate paid on that class within the village or neighbouring villages.]

What may be taken in certain districts to be "prevailing rate."

[<sup>1</sup>]**31A.** (1) In any district or part of a district to which this sub-section is extended by the Local Government by notification in the Calcutta Gazette, whenever the prevailing rate for any class of land is to be ascertained under section 30, clause (a), by an examination of the rates at which lands of a similar description and with similar advantages are held within any village or villages, the highest of such rates at which and at rates higher than which the larger portion of those lands is held may be taken to be the prevailing rate.

*Illustrations.*

(a) The rates at which land of a similar description and with similar advantages is held in a village are as follows:—

Bighas.	Rs. A. P.
100	at 1 0 0
200	„ 1 8 0
150	„ 1 12 0
100	„ 2 0 0
150	„ 2 4 0
<hr/> Total 700	

Then Rs. 2-4 is not the prevailing rate, because only 150 bighas, or less than half, are held at that rate. Rs. 2 is not the prevailing rate, because 250 bighas, or less than half, are held at that or a higher rate. Re. 1-12 is the prevailing rate, because 400 bighas, or more than half, are held either at this or a higher rate, and this is the highest rate at which, and at rates higher than which, more than half the land is held.

(b) The rates at which land of a similar description and with similar advantages is held in a village are as follows:—

Bighas.	Rs. A. P.
100	at 1 0 0
250	„ 1 4 0
150	„ 1 8 0
150	„ 1 12 0
50	„ 2 0 0
<hr/> Total ... 700	

Then, for the reasons given in Illustration (a), neither Rs. 2 nor Re. 1-12 is the prevailing rate, nor is Re. 1-8 the prevailing rate, because only 350 bighas (exactly half) are held at Re. 1-8 or at rates higher than Re. 1-8. In this case Re. 1-4 is the prevailing rate, because more than half the lands are held at Re. 1-4 or higher rates, and this is the highest rate at which, and at rates higher than which, more than half the land is held.

(2) The Local Government may, by a like notification, withdraw sub-section (1) from any district or part of a district to which it has been extended as aforesaid.

[<sup>1</sup>] S. 31A was inserted by the Bengal Tenancy (Amendment) Act, 1898 (Ben. Act 3 of 1898), s. 4, in Vol. II of this Code.

## (Secs. 31B-33.)

[<sup>1</sup>]31B. When the prevailing rate has once been determined by a Revenue-officer under Chapter X or by a Civil Court in any suit under this Act, it shall not be liable to enhancement save on the ground and to the extent specified in section 30, clause (b), and section 32.

Limit to enhancement of prevailing rate.

32. Where an enhancement is claimed on the ground of a rise in prices—

Rules as to enhancement on ground of rise in prices.

(a) the Court shall compare the average prices during the decennial period immediately preceding the institution of the suit with the average prices during such other decennial period as it may appear equitable and practicable to take for comparison;

(b) the enhanced rent shall bear to the previous rent the same proportion as the average prices during the last decennial period bear to the average prices during the previous decennial period taken for purposes of comparison: provided that, in calculating this proportion, the average prices during the later period shall be reduced by one-third of their excess over the average prices during the earlier period;

(c) if in the opinion of the Court it is not practicable to take the decennial periods prescribed in clause (a), the Court may, in its discretion, substitute any shorter periods therefor.

33. (1) Where an enhancement is claimed on the ground of a land-lord's improvement—

Rules as to enhancement on ground of land-lord's improvement.

(a) the Court shall not grant an enhancement unless the improvement has been registered in accordance with this Act;

(b) in determining the amount of enhancement the Court shall have regard to—

(i) the increase in the productive powers of the land caused or likely to be caused by the improvement,

(ii) the cost of the improvement,

(iii) the cost of the cultivation required for utilizing the improvement, and

(iv) the existing rent and the ability of the land to bear a higher rent.

(2) A decree under this section shall, on the application of the tenant or his successor in interest, be subject to reconsideration in the

[<sup>1</sup>] S. 31B was inserted by the Bengal Tenancy (Amendment) Act, 1898 (Ben. Act 3 of 1898), s. 4, in Vol. II of this Code.

## (Secs. 34-38.)

event of the improvement not producing or ceasing to produce the estimated effect.

Rules as to enhancement on ground of increase in productive powers due to fluvial action.

**34.** Where an enhancement is claimed on the ground of an increase in productive powers due to fluvial action—

(a) the Court shall not take into account any increase which is merely temporary or casual;

(b) the Court may enhance the rent to such an amount as it may deem fair and equitable, but not so as to give the landlord more than one-half of the value of the net increase in the produce of the land.

Enhancement by suit to be fair and equitable. Power to order progressive enhancement.

**35.** Notwithstanding anything in the foregoing sections, the Court shall not in any case decree any enhancement which is under the circumstances of the case unfair or inequitable.

**36.** If the Court passing a decree for enhancement considers that the immediate enforcement of the decree in its full extent will be attended with hardship to the *raiyat*, it may direct that the enhancement shall be gradual; that is to say, that the rent shall increase yearly by degrees for any number of years not exceeding five until the limit of the enhancement decreed has been reached.

Limitation of right to bring successive enhancement suits.

**37.** (1) A suit instituted for the enhancement of the rent of a holding on the ground that the rate of rent paid is below the prevailing rate, or on the ground of a rise in prices, shall not be entertained if within the fifteen years next preceding its institution the rent of the holding has been enhanced by a contract made after the second day of March, 1883, or if within the said period of fifteen years the rent has been commuted under section 40, or a decree has been passed under this Act or any enactment repealed by this Act enhancing the rent on either of the grounds aforesaid or on any ground corresponding thereto or dismissing the suit on the merits.

(2) Nothing in this section shall affect the provisions of section 373 of the Code of Civil Procedure.<sup>[1]</sup>

14 of 1882.

### Reduction of rent.

Reduction of rent.

**38.** (1) An occupancy-*raiyat* holding at a money-rent may institute a suit for the reduction of his rent on the following grounds, and, except

[1] Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (5 of 1908), and this reference should now be taken to be made to rule 1 in Order XXIII in Sch. I to that Code—see s. 158 thereof.

(Sec. 39.)

as hereinafter provided in the case of a diminution of the area of the holding, not otherwise, (namely) :—

(a) on the ground that the soil of the holding has without the fault of the *raiyat* become permanently deteriorated by a deposit of sand or other specific cause, sudden or gradual,  
or

(b) on the ground that there has been a fall, not due to a temporary cause, in the average local prices of staple food-crops during the currency of the present rent.

(2) In any suit instituted under this section, the Court may direct such reduction of the rent as it thinks fair and equitable.

#### Price-lists.

**39.** (1) The Collector of every district shall prepare, monthly, or at shorter intervals, periodical lists of the market-prices of staple food-crops grown in such local areas as the Local Government may from time to time direct, and shall submit them to the Board of Revenue for approval or revision. Price-lists  
of staple  
food-crops.

(2) The Collector may, if so directed by the Local Government, prepare for any local area like price-lists relating to such past times as the Local Government thinks fit, and shall submit the lists so prepared to the Board of Revenue for approval or revision.

(3) The Collector shall, one month before submitting a price-list to the Board of Revenue under this section, publish it in the prescribed manner within the local area to which it relates, and if any landlord or tenant of land within the local area, within the said period of one month, presents to him in writing any objection to the list, he shall submit the same to the Board of Revenue with the list.

(4) The price-lists shall, when approved or revised by the Board of Revenue, be published in the official Gazette; and any manifest error in any such list discovered after its publication may be corrected by the Collector with the sanction of the Board of Revenue.

(5) The Local Government shall cause to be compiled from the periodical lists prepared under this section lists of the average prices prevailing throughout each year, and shall cause them to be published annually in the official Gazette.

(6) In any proceedings under this Chapter for an enhancement or reduction of rent on the ground of a rise or fall in prices, the Court shall refer to the lists published under this section, and shall presume that

## (Sec. 40.)

the prices shown in the lists prepared for any year subsequent to the passing of this Act are correct [1] [and may presume that the prices shown in the lists prepared for any year prior to the passing of this Act are correct], unless and until it is proved that they are incorrect.

(7) The Local Government, \* \* \* \* [2] shall make rules for determining what are to be deemed staple food-crops in any local area and for the guidance of officers preparing price-lists under this section.

*Commutation.*

Commuta-  
tion of  
rent pay-  
able in  
kind.

**40.** (1) Where an occupancy-*raiyat* pays for a holding rent in kind, or on the estimated value of a portion of the crop, or at rates varying with the crop, or partly in one of those ways and partly in another, [3] [or partly in any of those ways and partly in cash], either the *raiyat* or his landlord may apply to have the rent commuted to a money-rent.

(2) The application may be made to the Collector or Subdivisional Officer, or to [4] [a Revenue-officer appointed by the Local Government under the designation of Settlement Officer or Assistant Settlement Officer for the purpose of making a survey and record-of-rights] under Chapter X, or to any other officer specially authorized in this behalf by the Board of Revenue[5].

(3) On the receipt of the application the officer may determine the sum to be paid as money-rent, and may order that the *raiyat* shall, in lieu of paying his rent in kind, or otherwise as aforesaid, pay the sum so determined.

(4) In making the determination the officer shall have regard to—

(a) the average money-rent payable by occupancy-*raiyyats* for land of a similar description and with similar advantages in the vicinity;

(b) the average value of the rent actually received by the landlord during the preceding ten years or during any shorter period for which evidence may be available;\* \* [6]

[1] These words in square brackets in s. 39 (6) were inserted by the Bengal Tenancy (Amendment) Act, 1898 (Ben. Act 3 of 1898), s. 5, in Vol. II of this Code.

[2] The words "subject to the control of the Governor General in Council" in sub-section (7) were repealed by the Devolution Act, 1920 (38 of 1920), section 2 and First Schedule, *post*, p. 672, and are omitted.

[3] The words "or partly in any of those ways and partly in cash," in s. 40 (1), were inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 11 (i), in Vol. II of this Code.

[4] These words in square brackets in s. 40 (2) were substituted for the words "an officer making a settlement of rents," by *ibid*, s. 11 (ii).

[5] The words "Board of Revenue" were substituted for the words "Local Government" by the Bihar and Orissa Decentralization Act, 1916 (B. & O. Act 3 of 1916), s. 2 and the Sch., in Vol. III of this Code.

[6] The word "and", in clause (b), repealed by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 11 (iii), in Vol. II of this Code, is omitted.

(Secs. 40A-43.)

- (c) the charges incurred by the landlord in respect of irrigation under the system of rent in kind, and the arrangements made on commutation for continuing those charges; [1]  
[and
- (d) improvements effected by the landlord or by the occupancy-*raiyat* in respect of the *raiyat*'s holding, and to the rules laid down in section 33 regarding enhancement of rent on the ground of a landlord's improvement].

(5) The order shall be in writing, shall state the grounds on which it is made, and the time from which it is to take effect, and shall be subject to appeal in like manner as if it were an order made in an ordinary revenue proceeding.

(6) If the application is opposed, the officer shall consider whether under all the circumstances of the case it is reasonable to grant it, and shall grant or refuse it accordingly. If he refuses it, he shall record in writing the reasons for the refusal.

[2]40A. (1) Where the rent of a holding has been commuted under section 40, it shall not, except on the ground of a landlord's improvement or of a subsequent alteration of the area of the holding, be enhanced for fifteen years; nor shall it be reduced for fifteen years, save on the ground of alteration in the area of the holding, or on the ground specified in clause (a) of sub-section (1) of section 38.

Period for which commuted rents are to remain unaltered.

(2) The said period of fifteen years shall be counted from the date on which the order takes effect under sub-section (5) of section 40.

## [3]CHAPTER VI.

### NON-OCCUPANCY-RAIYATS.

41. This Chapter shall apply to *raiyats* not having a right of occupancy, who are in this Act referred to as non-occupancy *raiyats*.

Application of Chapter.

42. When a non-occupancy-*raiyat* is admitted to the occupation of land, he shall become liable to pay such rent as may be agreed on between himself and his landlord at the time of his admission.

Initial rent of non-occupancy-*raiyat*.

43. The rent of a non-occupancy-*raiyat* shall not be enhanced except by registered agreement or by agreement under section 46 :

Conditions of enhancement of rent.

[1] These words in square brackets were added to s. 40 (4) by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 11 (iv), in Vol. II of this Code.

[2] Section 40A was inserted by *ibid*, s. 12.

[3] Chapter VI does not apply to certain lands—see s. 116, *post*, p. 467.



(Secs. 44-46.)

Provided that nothing in this section shall prevent a landlord from recovering rent at the rate at which it has been actually paid for a continuous period of not less than three years immediately preceding the period for which the rent is claimed.

Grounds on which non-occupancy-*raiyyat* may be ejected.

**44.** A non-occupancy-*raiyyat* shall, subject to the provisions of this Act, be liable to ejectment on one or more of the following grounds, and not otherwise, (namely) :—

- (a) on the ground that he has failed to pay an arrear of rent ;
- (b) on the ground that he has used the land in a manner which renders it unfit for the purposes of the tenancy, or that he has broken a condition consistent with this Act and on breach of which he is, under the terms of a contract between himself and his landlord, liable to be ejected ;
- (c) where he has been admitted to occupation of the land under a registered lease, on the ground that the term of the lease has expired ;
- (d) on the ground that he has refused to agree to pay a fair and equitable rent determined under section 46, or that the term for which he is entitled to hold at such a rent has expired.

**45.** (*Conditions of ejectment on ground of expiration of lease*) Rep. by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 2.

Conditions of ejectment on ground of refusal to agree to enhancement.

**46.** (1) A suit for ejectment on the ground of refusal to agree to an enhancement of rent shall not be instituted against a non-occupancy-*raiyyat* unless the landlord has tendered to the *raiyyat* an agreement to pay the enhanced rent, and the *raiyyat* has within three months before the institution of the suit refused to execute the agreement.

(2) A landlord desiring to tender an agreement to a *raiyyat* under this section may file it in the office of such Court or officer as the Local Government appoints in this behalf for service on the *raiyyat*. The Court or officer shall forthwith cause it to be served on the *raiyyat* in the prescribed manner, and when it has been so served, it shall for the purposes of this section be deemed to have been tendered.

(3) If a *raiyyat* on whom an agreement has been served under subsection (2) executes it, and within one month from the date of service files it in the office from which it issued, it shall take effect from the commencement of the agricultural year next following.

(Secs. 47-48.)

(4) When an agreement has been executed and filed by a *raiyat* under sub-section (3), the Court or officer in whose office it is so filed shall forthwith cause a notice of its being so executed and filed to be served on the landlord in the prescribed manner.

(5) If the *raiyat* does not execute the agreement and file it under sub-section (3), he shall be deemed for the purposes of this section to have refused to execute it.

(6) If a *raiyat* refuses to execute an agreement tendered to him under this section, and the landlord thereupon institutes a suit to eject him, the Court shall determine what rent is fair and equitable for the holding.

(7) If the *raiyat* agrees to pay the rent so determined, he shall be entitled to remain in occupation of his holding at that rent for a term of five years from the date of the agreement, but on the expiration of that term shall be liable to ejectment under the conditions mentioned in the last foregoing section, unless he has acquired a right of occupancy.

(8) If the *raiyat* does not agree to pay the rent so determined, the Court shall pass a decree for ejectment.

(9) In determining what rent is fair and equitable, the Court shall have regard to the rents generally paid by *raiya*s for land of a similar description and with like advantages in the same village.

(10) A decree for ejectment passed under this section shall take effect from the end of the agricultural year in which it is passed.

47. Where a *raiyat* has been in occupation of land and a lease is executed with a view to a continuance of his occupation, he is not to be deemed to be admitted to occupation by that lease for the purposes of this Chapter, notwithstanding that the lease may purport to admit him to occupation.

Explanation  
of "admitted to occupation."

## CHAPTER VII.

### UNDER-RAIYATS.

48. The landlord of an under-raiyat holding at a money-rent shall not be entitled to recover rent exceeding the rent which he himself pays by more than the following percentage of the same, (namely) :—

Limit of  
rent recover-  
able from  
under-  
raiya

(a) when the rent payable by the under-raiyat is payable under a registered lease or agreement—fifty *per cent*; and

(b) in any other case—twenty-five *per cent*.

(Secs. 49-50.)

Restriction  
on eject-  
ment of  
under-  
*raiyats*.

**49.** An under-*raiyat* shall not be liable to be ejected by his landlord, except—

- (a) on the expiration of the term of a written lease;
- (b) when holding otherwise than under a written lease, at the end of the agricultural year next following the year in which a notice to quit is served upon him by his landlord.

## CHAPTER VIII.

### GENERAL PROVISIONS AS TO RENT.

#### *Rules and presumptions as to amount of rent.*

Rules and  
presump-  
tions as to  
fixity of  
rent.

**50.** (1) Where a tenure-holder or *raiyat* and his predecessors in interest have held at a rent or rate of rent which has not been changed from the time of the Permanent Settlement, the rent or rate of rent shall not be liable to be increased except on the ground of an alteration in the area of the tenure or holding.

(2) If it is proved in any suit or other proceeding under this Act that either a tenure-holder or *raiyat* and his predecessors in interest have held at a rent or rate of rent which has not been changed during the twenty years immediately before the institution of the suit or proceeding, it shall be presumed, until the contrary is shown, that they have held at that rent or rate of rent from the time of the Permanent Settlement:

Provided that if it is required by or under any enactment that in any local area tenancies, or any classes of tenancies, at fixed rents or rates of rent shall be registered as such on, or before, a date specified by or under the enactment, the foregoing presumption shall not after that date apply to any tenancy or, as the case may be, to any tenancy of that class in that local area unless the tenancy has been so registered.

(3) The operation of this section, so far as it relates to land held by a *raiyat*, shall not be affected by the fact of the land having been separated from other land which formed with it a single holding, or amalgamated with other land into one holding.

(4) Nothing in this section shall apply to a tenure held for a term of years or determinable at the will of the landlord.

(Secs. 51-52.)

**51.** If a question arises as to the amount of a tenant's rent or the conditions under which he holds in any agricultural year, he shall be presumed, until the contrary is shown, to hold at the same rent and under the same conditions as in the last preceding agricultural year.

Presumption  
as to  
amount of  
rent and  
conditions  
of holdings.

*Alteration of rent on alteration of area.*

**52.** (1) Every tenant shall—

- (a) be liable to pay additional rent for all land proved by measurement to be in excess of the area for which rent has been previously paid by him, unless it is proved that the excess is due to the addition to the tenure or holding of land which having previously belonged to the tenure or holding was lost by diluvion or otherwise without any reduction of the rent being made, and
- (b) be entitled to a reduction of rent in respect of any deficiency proved by measurement to exist in the area of his tenure or holding as compared with the area for which rent has been previously paid by him, unless it is proved that the deficiency is due to the loss of land which was added to the area of the tenure or holding by alluvion or otherwise, and that an addition has not been made to the rent in respect of the addition to the area.

Alteration  
of rent in  
respect of  
alteration  
in area.

(2) In determining the area for which rent has been previously paid, the Court shall, if so required by any party to the suit, have regard to—

- (a) the origin and conditions of the tenancy, for instance, whether the rent was a consolidated rent for the entire tenure or holding;
- (b) whether the tenant has been allowed to hold additional land in consideration of an addition to his total rent or otherwise with the knowledge and consent of the landlord;
- (c) the length of time during which the tenancy has lasted without dispute as to rent or area; and
- (d) the length of the measure used or in local use at the time of the origin of the tenancy as compared with that used or in local use at the time of the institution of the suit.

(3) In determining the amount to be added to the rent, the Court shall have regard to the rates payable by tenants of the same class for lands of a similar description and with similar advantages in the vicinity, and, in the case of a tenure-holder, to the profits to which he is entitled

(Secs. 53-54.)

in respect of the rent of his tenure, and shall not in any case fix any rent which, under the circumstances of the case, is unfair or inequitable.

(4) The amount abated from the rent shall bear the same proportion to the rent previously payable as the diminution of the total yearly value of the tenure or holding bears to the previous total yearly value thereof, or, in default of satisfactory proof of the yearly value of the land lost, shall bear to the rent previously payable the same proportion as the diminution of area bears to the previous area of the tenure or holding.

[<sup>1</sup>](5) [When in a suit under this section the landlord or tenant is unable to indicate any particular land as held in excess, the rent to be added on account of the excess area may be calculated at the average rate of rent paid on all the lands of the holding exclusive of such excess area.]

[<sup>2</sup>](6) [When in a suit under this section the landlord or tenant proves that, at the time the measurement on which the claim is based was made, there existed in respect of the estate or permanent tenure or part thereof in which the tenure or holding is situate, a practice of settlement being made after measurement of the land assessed with rent, it may be presumed that the area of the tenure or holding specified in any *patta* or *kabuliyat*, or (where there is an entry of area in a counter-foil receipt corresponding to the entry in the rent-roll) in any rent-roll relating to it, has been entered in such *patta*, *kabuliyat* or rent-roll after measurement.]

### *Payment of rent.*[<sup>3</sup>]

Instalments  
of rent.

**53.** Subject to agreement or established usage, a money-rent payable by a tenant shall be paid in four equal instalments falling due on the last day of each quarter of the agricultural year.

Time and  
place for  
payment of  
rent.

**54.** (1) Every tenant shall pay each instalment of rent before sunset of the day on which it falls due.

(2) The payment shall, except in cases where a tenant is allowed under this Act to deposit his rent, be made at the landlord's village-office, or at such other convenient place as may be appointed in that behalf by the landlord :

[<sup>1</sup>] Sub-section (5) was added to s. 52 by the Bengal Tenancy (Amendment) Act, 1898 (Ben. Act 3 of 1898), s. 6, in Vol. II of this Code.

[<sup>2</sup>] Sub-section (6) was added to section 52 by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 13, in Vol. II of this Code.

[<sup>3</sup>] The word "rent," in ss. 53 to 55, includes also money recoverable under any enactment for the time being in force as if it was rent—see s. 3 (5), *ante*, p. 404.

## (Secs. 55-57.)

Provided that the Local Government may, from time to time, make rules,<sup>[1]</sup> either generally or for any specified local area, authorizing a tenant to pay his rent by postal money-order.

(3) Any instalment or part of an instalment of rent not duly paid at or before the time when it falls due shall be deemed an arrear.

**55.** (1) When a tenant makes a payment on account of rent, he may declare the year or the year and instalment to which he wishes the payment to be credited, and the payment shall be credited accordingly.

Appropriation of payments.

(2) If he does not make any such declaration, the payment may be credited to the account of such year and instalment as the landlord thinks fit.

[<sup>2</sup>] *Receipts and accounts.*

**56.** (1) Every tenant who makes a payment on account of rent to his landlord shall be entitled to obtain forthwith from the landlord a written receipt for the amount paid by him, signed by the landlord.

Tenant making payment to his landlord entitled to a receipt.

(2) The landlord shall prepare and retain a counterfoil of the receipt.

(3) The receipt and counterfoil shall specify such of the several particulars shown in the form of receipt given in Schedule II to this Act as can be specified by the landlord at the time of payment :

Provided that the [Board of Revenue] [<sup>3</sup>] may, from time to time, prescribe or sanction a modified form, [<sup>4</sup>] either generally or for any particular local area or class of cases.

(4) If a receipt does not contain substantially the particulars required by this section, it shall be presumed, until the contrary is shown, to be an acquittance in full of all demands for rent up to the date on which the receipt was given.

**57.** (1) Where a landlord admits that all rent payable by a tenant to the end of the agricultural year has been paid, the tenant shall be entitled to receive from the landlord, free of charge, within three months after the end of the year, a receipt in full discharge of all rent falling due to the end of the year, signed by the landlord.

Tenant entitled to full discharge or statement of account at close of year.

[1] For rules made under s. 54 (2), see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

[2] The word "rent," in ss. 56 to 60, includes also money recoverable under any enactment for the time being in force as if it was rent—see s. 3 (5), *ante*, p. 404.

[3] These words were substituted for the words "Local Government" by the Bihar and Orissa Decentralization Act, 1916 (B. & O. Act 3 of 1916), s. 2 and Sch., Part II, in Vol. III of this Code.

[4] For orders made under s. 56 (3), see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

## (Sec. 58.)

(2) Where the landlord does not so admit, the tenant shall be entitled, on paying a fee of four annas, to receive, within three months after the end of the year, a statement of account specifying the several particulars shown in the form of account given in Schedule II to this Act, or in such other form as may from time to time be prescribed by the [Board of Revenue] [1] either generally or for any particular local area or class of cases.

(3) The landlord shall prepare and retain a copy of the statement containing similar particulars.

Penalties  
and fine for  
withholding  
receipts and  
statements  
of account  
and failing  
to keep  
counter-  
parts.

**58.** (1) If a landlord without reasonable cause refuses or neglects to deliver to a tenant a receipt containing the particulars prescribed by section 56 for any rent paid by the tenant, the tenant may, within three months from the date of payment, institute a suit to recover from him such penalty, not exceeding double the amount or value of that rent, as the Court thinks fit.

(2) If a landlord without reasonable cause refuses or neglects to deliver to a tenant demanding the same either the receipt in full discharge or, if the tenant is not entitled to such a receipt, the statement of account for any year prescribed in section 57, the tenant may, within the next ensuing agricultural year, institute a suit to recover from him such penalty as the Court thinks fit, not exceeding double the aggregate amount or value of all rent paid by the tenant to the landlord during the year for which the receipt or account should have been delivered.

[2] (3) If a landlord or his agent, without reasonable cause, fails to deliver to the tenant a receipt or statement, or to prepare and retain a counterfoil or copy of a receipt or statement, as required by either of the said sections, such landlord or agent, as the case may be, shall be liable to a fine not exceeding fifty rupees, to be imposed, after summary inquiry, by the Collector.

[2] (4) The Collector may hold a summary inquiry under sub-section (3) either on information received from a Revenue-officer within one year, or upon complaint of the party aggrieved made within three months, from the date of failure, or upon the report of a Civil Court.

[2] (5) Where, in any case instituted under sub-section (3), the Collector discharges any landlord or agent, and is satisfied that the complaint of the tenant on which the proceedings were instituted is false

[1] These words were substituted for the words "Local Government" by the Bihar and Orissa Decentralization Act, 1916 (B. & O. Act 3 of 1916), s. 2 and Sch. Part II, in Vol. III of this Code.

[2] The sub-sections (3) to (8) here printed were substituted for the original sub-section (3), by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 14, in Vol. II of this Code. The original sub-section ran thus:—

"(3) If a landlord without reasonable cause fails to prepare and retain a counterfoil or copy of a receipt or statement as required by either of the said sections, he shall be punished with fine which may extend to fifty rupees."

(Secs. 59-60.)

or vexatious, the Collector may, in his discretion, by his order of discharge, direct the tenant to pay to such landlord or agent such compensation, not exceeding fifty rupees, as the Collector thinks fit.

[<sup>1</sup>](6) An appeal shall lie to the Commissioner of the Division against any order of the Collector imposing a fine under sub-section (3) or awarding compensation under sub-section (5); and the order [<sup>2</sup>] passed by the Commissioner on such appeal shall, subject to any order which may be passed on revision by the Board of Revenue, [<sup>3</sup>] be final.

[<sup>1</sup>](7) Any fine imposed or compensation awarded under this section may be recovered in the manner provided by any law [<sup>4</sup>] for the time being in force for the recovery of a public demand.

[<sup>1</sup>](8) For the purpose of an inquiry under this section, the Collector shall have power to summon, and enforce the attendance of, witnesses, and compel the production of documents in the same manner as is provided in the case of a Court under the Code of Civil Procedure. [<sup>5</sup>]

**59.** (1) The Local Government shall cause to be prepared and kept for sale to landlords at all subdivisional offices forms of receipts with counterfoils and of statements of account suitable for use under the foregoing sections.

Local Government to prepare forms of receipt and account.

(2) The forms may be sold in books with the leaves consecutively numbered or otherwise as the Local Government thinks fit.

**60.** Where rent is due to the proprietor, manager or mortgagee of an estate, the receipt of the person registered under the Land Registration Act, 1876 [<sup>6</sup>], as proprietor, manager or mortgagee of that estate, or of his agent authorized in that behalf, shall be a sufficient discharge for the rent; and the person liable for the rent shall not be entitled to plead in defence to a claim by the person so registered that the rent is due to any third person.

Ben. Act 7 of 1876.

Effect of receipt by registered proprietor, manager or mortgagee.

But nothing in this section shall affect any remedy which any such third person may have against the registered proprietor, manager or mortgagee.

[<sup>1</sup>] Sub-sections (6) to (8) are new—see footnote [<sup>2</sup>] on the preceding page.

[<sup>2</sup>] In Bengal Act 1 of 1907, s. 14, this word is printed as “orders.”

[<sup>3</sup>] Now the Board of Revenue for Bihar and Orissa—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 10, *post*, p. 648.

[<sup>4</sup>] See the Bihar and Orissa Public Demands Recovery Act, 1914 (B and O. Act 4 of 1914), ss. 4 and 5, in Volume III of this Code.

[<sup>5</sup>] Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (5 of 1908), and this reference should now be taken to be made to that Code—see s. 158 thereof.

[<sup>6</sup>] Printed in Vol. II of this Code.



(Sec. 61.)

*Deposit of rent.*<sup>[1]</sup>

Application  
to deposit  
rent in  
Court.

**61.** (1) In any of the following cases, namely :—

- (a) when a tenant tenders money on account of rent and the landlord refuses to receive it or refuses to grant a receipt for it;
- (b) when a tenant bound to pay money on account of rent has reason to believe, owing to a tender having been refused or a receipt withheld on a previous occasion, that the person to whom his rent is payable will not be willing to receive it and to grant him a receipt for it;
- (c) when the rent is payable to co-sharers jointly, and the tenant is unable to obtain the joint receipt of the co-sharers for the money and no person has been empowered to receive the rent on their behalf; or
- (d) when the tenant entertains a *bonâ fide* doubt as to who is entitled to receive the rent,

the tenant may present to the Court having jurisdiction to entertain a suit for the rent of his tenure or holding an application in writing for permission to deposit in the Court the full amount of the money then due.

(2) The application shall contain a statement of the grounds on which it is made; shall state—

in cases (a) and (b), the name of the person to whose credit the deposit is to be entered,

in case (c), the names of the sharers to whom the rent is due, or of so many of them as the tenant may be able to specify, and

in case (d), the names of the person to whom the rent was last paid and of the person or persons now claiming it;

shall be signed and verified, in the manner prescribed in section 52 of the Code of Civil Procedure<sup>[2]</sup>, by the tenant, or, where he is not personally cognizant of the facts of the case, by some person so cognizant; and shall be accompanied by a fee of such amount as the Local Government, from time to time, by rule<sup>[3]</sup>, directs.

[1] The word "rent," in ss. 61 to 64, includes also money recoverable under any enactment for the time being in force as if it was rent—*see* s. 3 (5), *ante*, p. 404.

[2] Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (5 of 1908), and this reference should now be taken to be made to rule 15 in Order VI in Sch. I to that Code—*see* s. 158 thereof.

[3] For rules made under s. 61 (2), *see* the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

(Secs. 62-64.)

**62.** (1) If it appears to the Court to which an application is made under the last foregoing section that the applicant is entitled under that section to deposit the rent, it shall receive the rent and give a receipt for it under the seal of the Court.

Receipt granted by Court for rent deposited to be a valid acquittance

(2) A receipt given under this section shall operate as an acquittance for the amount of the rent payable by the tenant and deposited as aforesaid, in the same manner and to the same extent as if that amount of rent had been received—

in cases (a) and (b) of the last foregoing section, by the person specified in the application as the person to whose credit the deposit was to be entered;

in case (c) of that section, by the co-sharers to whom the rent is due; and

in case (d) of that section, by the person entitled to the rent.

**63.** (1) The Court receiving the deposit shall forthwith cause to be affixed in a conspicuous place at the Court-house a notification of the receipt thereof, containing a statement of all material particulars.

Notification of receipt of deposit.

(2) If the amount of the deposit is not paid away under the next following section, within the period of fifteen days next following the date on which the notification is so affixed, the Court shall forthwith—

in cases (a) and (b) of section 61, cause a notice of the receipt of the deposit to be served, free of charge, on the person specified in the application as the person to whose credit the deposit was to be entered;

in case (c) of that section, cause a notice of the receipt of the deposit to be posted at the landlord's village office or in some conspicuous place in the village in which the holding is situate; and

in case (d) of that section, cause a like notice to be served, free of charge on every person who it has reason to believe claims or is entitled to the deposit.

**64.** (1) The Court may pay the amount of the deposit to any person appearing to it to be entitled to the same, or may, if it thinks fit, retain the amount pending the decision of a Civil Court as to the person so entitled.

Payment or refund of deposit.

(2) The payment may, if the Local Government so direct, be made by postal money-order.

(3) If no payment is made under this section before the expiration of three years from the date on which a deposit is made, the amount

(Secs. 65-67.)

deposited may, in the absence of any order of a Civil Court to the contrary, be repaid to the depositor upon his application and on his returning the receipt given by the Court with which the rent was deposited.

(4) No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Court receiving a deposit under the foregoing sections; but nothing in this section shall prevent any person entitled to receive the amount of any such deposit from recovering the same from a person to whom it has been paid under this section.

#### Arrears of rent.[<sup>1</sup>]

Liability to sale for arrears in case of permanent tenure, holding at fixed rates or occupancy-holding. Ejectment for arrears in other cases.

**65.** Where a tenant is a permanent tenure-holder, a *raiyyat* holding at fixed rates or an occupancy-*raiyyat*, he shall not be liable to ejectment for arrears of rent, but his tenure or holding shall be liable to sale in execution of a decree for the rent thereof, and the rent shall be a first charge thereon.

**66.** (1) When an arrear of rent remains due from a tenant not being a permanent tenure-holder, a *raiyyat* holding at fixed rates or an occupancy-*raiyyat*, at the end of the Bengali year[<sup>2</sup>] where that year prevails, or at the end of the month of *Jeth*[<sup>3</sup>] where the *Fasli* or *Amlī* year prevails the landlord may, whether he has obtained a decree for the recovery of the arrear or not and whether he is entitled by the terms of any contract to eject the tenant for arrears or not, institute a suit to eject the tenant.

(2) In a suit for ejectment for an arrear of rent a decree passed in favour of the plaintiff shall specify the amount of the arrear and of the interest (if any) due thereon, and the decree shall not be executed if that amount and the costs of the suit are paid into Court within fifteen days from the date of the decree, or when the Court is closed on the fifteenth day, on the day upon which the Court re-opens.

(3) The Court may for special reasons extend the period of fifteen days mentioned in this section.

Interest on arrears.

**67.** An arrear of rent shall bear simple interest at the rate of twelve [<sup>4</sup>][and-a-half] *per centum per annum* from the expiration of that

[<sup>1</sup>] The word "rent" in ss. 65 to 68 includes also money recoverable under any enactment for the time being in force as if it was rent—see s. 3 (5), *ante*, p. 404.

[<sup>2</sup>] i.e., the month of *Chaitra*, which corresponds with the last part of March and the first part of April.

[<sup>3</sup>] The month of *Jeth* corresponds with the last part of May and the first part of June.

[<sup>4</sup>] The words "and-a-half" in s. 67 were inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 15 (a), in Vol. II of this Code.

(Secs 68-69)

quarter of the agricultural year in which the instalment falls due<sup>[1]</sup> [to the date of payment or of the institution of the suit, whichever date is earlier.]

68. (1) If, in any suit brought for the recovery of arrears of rent, it appears to the Court that the defendant has, without reasonable or probable cause, neglected or refused to pay the amount of rent due by him, the Court may award to the plaintiff, in addition to the amount decreed for rent and costs, such damages, not exceeding twenty-five *per centum* on the amount of rent decreed, as it thinks fit :

Power to award damages on rent withheld without reasonable cause, or to defendant improperly sued for rent.

Provided that interest shall not be decreed when damages are awarded under this section.

(2) If, in any suit brought for the recovery of arrears of rent, it appears to the Court that the plaintiff has instituted the suit without reasonable or probable cause, the Court may award to the defendant, by way of damages, such sum, not exceeding twenty-five *per centum* on the whole amount claimed by the plaintiff, as it thinks fit.

#### *Produce rents.*

69. (1) Where rent is taken by appraisement or division of the produce,—

Order for appraising or dividing produce.

(a) if either the landlord or the tenant neglects to attend, either personally or by agent, at the proper time for making the appraisement or division, or

(b) if there is a dispute about the quantity, value or division of the produce,

the Collector may, on the application of either party, and on his depositing such sum on account of expenses as the Collector may require, make an order appointing such officer as he thinks fit to appraise or divide the produce.

(2) The Collector may, without such an application, make the like order in any case where in the opinion of the District or Subdivisional Magistrate the making of the order would be likely to prevent a breach of the peace.

(3) Where a Collector makes an order under this section, he may, by order, prohibit the removal of the produce until the appraisement or

[1] The words "to the date of payment or of the institution of the suit, whichever date is earlier" in s. 67 were substituted for the words "to the institution of the suit," by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 15 (b), in Vol. II of this Code.

(Secs. 70-71.)

division has been effected;[<sup>1</sup>] [but an order made by the Collector under this sub-section shall not prevent the execution of any order passed by the Court for the distraint of the tenant's crops].

[<sup>2</sup>](4) Every officer appointed by the Collector under sub-section (1) to appraise or divide the produce shall, for the purposes of the Indian Penal Code, be deemed to be a public servant.]

Procedure  
where  
officer  
appointed.

**70.** (1) When a Collector appoints an officer under the last foregoing section, the Collector may, in his discretion, direct the officer to associate with himself any other persons as assessors, and may give him instructions regarding the number, qualifications and mode of selection of those assessors (if any), and the procedure to be followed in making the appraisement or division; and the officer shall conform to the instructions so given.

(2) The officer shall, before making an appraisement or division, give notice to the landlord and tenant of the time and place at which the appraisement or division will be made; but if either the landlord or the tenant fails to attend either personally or by agent, he may proceed *ex parte*.

(3) When the officer has made the appraisement or division, he shall submit a report of his proceedings to the Collector.

(4) The Collector shall consider the report, and, after giving the parties an opportunity of being heard and making such inquiry (if any) as he may think necessary, shall pass such order thereon as he thinks just.

(5) The Collector may, if he thinks fit, refer any question in dispute between the parties for the decision of a Civil Court, but, subject as aforesaid, his order shall be final and shall, on application to a Civil Court by the landlord or the tenant, be enforceable as a decree.

(6) Where the officer makes an appraisement, the appraisement papers shall be filed in the Collector's office.

Rights and  
liabilities as  
to possession of  
crop.

**71.** (1) Where rent is taken by appraisement of the produce, the tenant shall be entitled to the exclusive possession of the produce.

(2) Where rent is taken by division of the produce, the tenant shall be entitled to the exclusive possession of the whole produce until it is divided, but shall not be entitled to remove any portion of the produce

[<sup>1</sup>] These words in square brackets were added to s. 69 (3) by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 16 (1), in Vol. II of this Code.

[<sup>2</sup>] Sub section (4) was added to s. 69 by *ibid*, s. 16 (2).

## (Secs. 72-75.)

from the threshing-floor at such a time or in such a manner as to prevent the due division thereof at the proper time.

(3) In either case the tenant shall be entitled to cut and harvest the produce in due course of husbandry without any interference on the part of the landlord.

(4) If the tenant removes any portion of the produce at such a time or in such a manner as to prevent the due appraisement or division thereof at the proper time, the produce shall be deemed to have been as full as the fullest crop of the same description appraised in the neighbourhood on similar land for that harvest.

[<sup>1</sup>] *Liability for rent on change of landlord or after transfer of tenure or holding.*

**72.** (1) A tenant shall not, when his landlord's interest is transferred, be liable to the transferee for rent which became due after the transfer and was paid to the landlord whose interest was so transferred, unless the transferee has before the payment given notice of the transfer to the tenant.

Tenant not liable to transferee of landlord's interest for rent paid to former landlord without notice of the transfer.

(2) Where there is more than one tenant paying rent to the landlord whose interest is transferred, a general notice from the transferee to the tenants published in the prescribed manner shall be a sufficient notice for the purposes of this section.

**73.** When an occupancy-*raiyat* transfers his holding without the consent of the landlord, the transferor and transferee shall be jointly and severally liable to the landlord for arrears of rent accruing due after the transfer, unless and until notice of the transfer is given to the landlord in the prescribed manner.

Liability for rent after transfer of occupancy-holding.

*Illegal cesses, etc.*

**74.** All impositions upon tenants under the denomination of *abwab*, *mathat* or other like appellations, in addition to the actual rent, shall be illegal, and all stipulations and reservations for the payment of such shall be void.

*Abwab*, etc., illegal.

**75.** Every tenant from whom, except under any special enactment for the time being in force, any sum of money or any portion of the produce of his land is exacted by his landlord in excess of the rent [<sup>2</sup>][or interest] lawfully payable, may, within six months from the date of the

Penalty for exaction by landlord from tenant of sum in

[<sup>1</sup>]The word "rent" in ss. 72, 73, 74 and 75 includes also money recoverable under any enactment for the time being in force as if it was rent—see s. 3 (5), *ante*, p. 404.

[<sup>2</sup>] The words "or interest," in s. 75, were inserted, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 17, in Vol. II of this Code.

## (Sec. 76.)

excess of  
the rent  
payable.

exaction, institute a suit to recover from the landlord, in addition to the amount or value of what is so exacted, such sum by way of penalty as the Court thinks fit, not exceeding two hundred rupees; or, when double the amount or value of what is so exacted exceeds two hundred rupees, not exceeding double that amount or value.

## CHAPTER IX.

## MISCELLANEOUS PROVISIONS AS TO LANDLORDS AND TENANTS.

*Improvements.*

Definition  
of "im-  
provement."

**76.** (1) For the purposes of this Act, the term "improvement," used with reference to a *raiyat's* holding, shall mean any work which adds to the value of the holding which is suitable to the holding and consistent with the purpose for which it was let, and which, if not executed on the holding, is either executed directly for its benefit, or is, after execution, made directly beneficial to it.

(2) Until the contrary is shown, the following shall be presumed to be improvements within the meaning of this section:—

- (a) the construction of wells, tanks, water-channels and other works for the storage, supply or distribution of water for the purposes of agriculture, or for the use of men and cattle employed in agriculture;
- (b) the preparation of land for irrigation;
- (c) the drainage, reclamation from rivers or other waters, or protection from floods, or from erosion or other damage by water, of land used for agricultural purposes, or waste-land which is culturable;
- (d) the reclamation, clearance, enclosure or permanent improvement of land for agricultural purposes;
- (e) the renewal or re-construction of any of the foregoing works or alterations therein or additions thereto; and
- (f) the erection of a suitable dwelling-house for the *raiyat* and his family, together with all necessary out-offices.

(3) But no work executed by the *raiyat* of a holding shall be deemed to be an improvement for the purposes of this Act if it substantially diminishes the value of his landlord's property.

## (Secs. 77-80)

**77.** (1) Where a *raiyat* holds at fixed rates or has an occupancy-right in his holding, neither the *raiyat* nor his landlord shall, as such, be entitled to prevent the other from making an improvement in respect of the holding, except on the ground that he is willing to make it himself.

Right to make improvements in case of holding at fixed rates and occupancy-holding.

(2) If both the *raiyat* and his landlord wish to make the same improvement, the *raiyat* shall have the prior right to make it, unless it affects another holding or other holdings under the same landlord.

**78.** If a question arises between the *raiyat* and his landlord—

(a) as to the right to make an improvement, or

(b) as to whether a particular work is an improvement,

Collector to decide question as to right to make improvement, etc.

the Collector may, on the application of either party, decide the question, and his decision shall be final.

**79.** (1) A non-occupancy *raiyat* shall be entitled to construct, maintain and repair a well for the irrigation of his holding, with all works incidental thereto, and to erect a suitable dwelling-house for himself and his family, with all necessary out-offices; but shall not except as aforesaid and as next hereinafter provided, be entitled to make any other improvement in respect of his holding without his landlord's permission.

Right to make improvements in case of non-occupancy-holding

(2) A non-occupancy-*raiyat* who would, but for the want of his landlord's permission, be entitled to make an improvement in respect of his holding, may, if he desires that the improvement be made, deliver, or cause to be delivered, to his landlord a request in writing calling upon him to make the improvement within a reasonable time; and, if the landlord is unable or neglects to comply with that request, may make the improvement himself.

**80.** (1) A landlord may, by application to such Revenue-officer as the Board of Revenue<sup>[1]</sup> may appoint, register any improvement which he has lawfully made or which has been lawfully made at his expense or which he has assisted a tenant in making.

Registration of landlord's improvements.

(2) The application shall be in such form, shall contain such information, and shall be verified in such manner, by local inquiry or otherwise, as the Local Government, from time to time, by rule directs.

(3) The officer receiving the application may reject it if it has not been made within twelve months—

(a) in the case of improvements made before the commencement of this Act—from the commencement of this Act;

(b) in the case of improvements made after the commencement of this Act—from the date of the completion of the work.

[1] The words "Board of Revenue" were substituted for the words "Local Government" by the Bihar and Orissa Decentralization Act, 1916 (B. & O. Act 3 of 1916), s. 2 and Sch., Part II, in Vol. III of this Code.



## (Secs. 81-83.)

Application  
of record  
evidence as  
to improve-  
ment.

**81.** (1) If any landlord or tenant of a holding desires that evidence relating to any improvement made in respect thereof be recorded, he may apply to a Revenue-officer, who shall thereupon, at a time and place of which notice shall be given to the parties, record the evidence, unless he considers that there are no reasonable grounds for making the application, or it is made to appear that the subject-matter thereof is under inquiry in a Civil Court.

(2) When any matter has been recorded under this section, the record thereof shall be admissible in evidence in every subsequent proceeding between the landlord and tenant or any persons claiming under them.

**82.** (1) Every *raiyat* who is ejected from his holding shall be entitled to compensation for improvements which have been made in respect thereof in accordance with this Act by him, or by his predecessor in interest, and for which compensation has not already been paid.

(2) Whenever a Court makes a decree or order for the ejectment of a *raiyat*, it shall determine the amount of compensation (if any) due under this section to the *raiyat* for improvements, and shall make the decree or order of ejectment conditional on the payment of that amount to the *raiyat*.

(3) No compensation under this section for an improvement shall be claimable where the *raiyat* has made the improvement in pursuance of a contract or under a lease binding him, in consideration of some substantial advantage to be obtained by him, to make the improvement without compensation, and he has obtained that advantage.

(4) Improvements made by a *raiyat* between the second day of March, 1883, and the commencement of this Act shall be deemed to have been made in accordance with this Act.

(5) The Local Government may, from time to time, by notification in the official Gazette, make rules requiring the Court to associate with itself, for the purpose of estimating the compensation to be awarded under this section for an improvement, such number of assessors as the Local Government thinks fit, and determining the qualifications of those assessors and the mode of selecting them.

Principle on  
which  
compensa-  
tion is to be  
estimated.

**83.** (1) In estimating the compensation to be awarded under the last foregoing section for an improvement, regard shall be had—

- (a) to the amount by which the value, or the produce, of the holding, or the value of that produce, is increased by the improvement;
- (b) to the condition of the improvement, and the probable duration of its effects;

(Secs. 84-85.)

- (c) to the labour and capital required for the making of such an improvement;
- (d) to any reduction or remission of rent or any other advantage given by the landlord to the *raiyat* in consideration of the improvement; and
- (e) in the case of a reclamation or of the conversion of unirrigated into irrigated land, to the length of time during which the *raiyat* has had the benefit of the improvement at an unenhanced rent.

(2) When the amount of the compensation has been assessed, the Court may, if the landlord and *raiyat* agree, direct that, instead of being paid wholly in money, it shall be made wholly or partly in some other way.

*Acquisition of land for building and other purposes.*

**84.** A Civil Court may, on the application of the landlord of a holding, and on being satisfied that he is desirous of acquiring the holding or part thereof for some reasonable and sufficient purpose having relation to the good of the holding or of the estate in which it is comprised, including the use of the ground as building ground, or for any religious, educational or charitable purpose, Acquisition of land for building and other purposes.

and on being satisfied on the certificate of the Collector that the purpose is reasonable and sufficient,

authorize the acquisition thereof by the landlord upon such conditions as the Court may think fit, and require the tenant to sell his interest in the whole or such part of the holding to the landlord upon such terms as may be approved by the Court, including full compensation to the tenant.

*Sub-letting.*

**85.** (1) If a *raiyat* sub-lets otherwise than by a registered instrument, the sub-lease shall not be valid against his landlord unless made with the landlord's consent. Restrictions on sub-letting.

(2) A sub-lease by a *raiyat* shall not be admitted to registration if it purports to create a term exceeding nine years.

(3) Where a *raiyat* has, without the consent of his landlord, granted a sub-lease by an instrument registered before the commencement of this Act, the sub-lease shall not be valid for more than nine years from the commencement of this Act.

(Secs. 86-87.)

*Surrender and abandonment.*

surrender.

**86.** (1) A *raiyat* not bound by a lease or other agreement for a fixed period may, at the end of any agricultural year, surrender his holding.

(2) But, notwithstanding the surrender, the *raiyat* shall be liable to indemnify the landlord against any loss of the rent of the holding for the agricultural year next following the date of the surrender, unless he gives to his landlord, at least three months before he surrenders, notice of his intention to surrender.

(3) When a *raiyat* has surrendered his holding, the Court shall, in the following cases for the purposes of sub-section (2), presume, until the contrary is shown, that such notice was so given, namely:—

(a) if the *raiyat* takes a new holding in the same village from the same landlord during the agricultural year next following the surrender;

(b) if the *raiyat* ceases, at least three months before the end of the agricultural year at the end of which the surrender is made, to reside in the village in which the surrendered holding is situate.

(4) The *raiyat* may, if he thinks fit, cause the notice to be served through the Civil Court within the jurisdiction of which the holding or any portion of it is situate.

(5) When a *raiyat* has surrendered his holding, the landlord may enter on the holding and either let it to another tenant or take it into cultivation himself.

(6) When a holding is subject to an incumbrance secured by a registered instrument, the surrender of the holding shall not be valid unless it is made with the consent of the landlord and the incumbrancer.

(7) Save as provided in the last foregoing sub-section, nothing in this section shall affect any arrangement by which a *raiyat* and his landlord may arrange for a surrender of the whole or a part of the holding.

abandonment.

**87.** (1) If a *raiyat* voluntarily abandons his residence without notice to his landlord and without arranging for payment of his rent as it falls due, and ceases to cultivate his holding either by himself or by some other person, the landlord may, at any time after the expiration of the agricultural year in which the *raiyat* so abandons and ceases to cultivate, enter on the holding and let it to another tenant or take it into cultivation himself.

(2) Before a landlord enters under this section, he shall file a notice in the prescribed form in the Collector's office, stating that he

## (Sec. 88.)

has treated the holding as abandoned and is about to enter on it accordingly; and the Collector shall cause a notice to be published in such manner as the Local Government, by rule, directs.

(3) When a landlord enters under this section, the *raiyat* shall be entitled to institute a suit for recovery of possession of the land at any time not later than the expiration of two years, or, in the case of a non-occupancy-*raiyat*, six months, from the date of the publication of the notice; and thereupon the Court may, on being satisfied that the *raiyat* did not voluntarily abandon his holding, order recovery of possession on such terms, if any, with respect to compensation to persons injured and payment of arrears of rent as to the Court may seem just.

(4) Where the whole or part of a holding has been sub-let by a registered instrument, the landlord shall, before entering under this section, on the holding, offer the whole holding to the sub-lessee for the remainder of the term of the sub-lease at the rent paid by the *raiyat* who has ceased to cultivate the holding, and on condition of the sub-lessee paying up all arrears due from that *raiyat*. If the sub-lessee refuses or neglects within a reasonable time to accept the offer, the landlord may avoid the sub-lease and may enter on the holding and let it to another tenant or cultivate it himself as provided in sub-sections (1) and (2).

*Sub-division of tenancy.*

[<sup>1</sup>]88. A division of a tenure or holding, or distribution of the rent payable in respect thereof, shall not be binding on the landlord unless it is made [<sup>2</sup>] [with his express consent in writing<sup>[3]</sup> or with that of his agent duly authorized in that behalf:]

Division of  
tenancy not  
binding on  
landlord  
without his  
consent

[<sup>4</sup>]Provided that, if there is proved to have been made in any landlord's rent-roll any entry showing that any tenure or holding has been divided, or that the rent payable in respect thereof has been distributed, such landlord may be presumed to have given his express consent in writing to such division or distribution.

[<sup>1</sup>] Section 88 is not affected by s. 1 of the Bengal Tenancy (Validation and Amendment) Act, 1903 (Ben. Act 1 of 1903)—see s. 3 of that Act in Vol. II of this Code.

[<sup>2</sup>] These words in square brackets in s. 88 were substituted for the words "with his consent in writing" by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 18 (1), in Vol. II of this Code.

[<sup>3</sup>] The acceptance of a landlord's fee does not operate as an express consent under s. 88—see s. 18B (b), *ante*, p. 412.

[<sup>4</sup>] This proviso was added to s. 88 by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 18 (2), in Vol. II of this Code.

(Secs. 89-92.)

*Ejectment.*

No eject-  
ment except  
in execution  
of decree.

**89.** No tenant shall be ejected from his tenure or holding except in execution of a decree.

*Measurements.*

Landlord's  
right to  
measure  
and.

**90.** (1) Subject to the provisions of this section and any contract, a landlord may, by himself or by any person authorized by him in this behalf, enter on and measure all land comprised in his estate or tenure, other than land exempt from the payment of revenue.

(2) A landlord shall not, without the consent of the tenant, or the written permission of the Collector, be entitled to measure land more than once in ten years, except in the following cases (namely) :—

- (a) where the area of the tenure or holding is liable, by reason of alluvion or diluvion, to vary from year to year, and the rent payable depends on the area;
- (b) where the area under cultivation is liable to vary from year to year and the rent payable depends on the area under cultivation;
- (c) where the landlord is a purchaser otherwise than by voluntary transfer and not more than two years have elapsed since the date of his entry under the purchase.

(3) The ten years shall be computed from the date of the last measurement, whether made before or after the commencement of this Act.

Power for  
Court to  
order tenant  
to attend  
and point  
out bound-  
aries.

**91.** (1) Where a landlord desires to measure any land which he is entitled to measure under the last foregoing section, the Civil Court may, on the application of the landlord, make an order requiring the tenant to attend and point out the boundaries of the land.

(2) If the tenant refuses or neglects to comply with the order, a map or other record of the boundaries and measurements of the land prepared under the direction of the landlord at the time when the tenant was directed to attend, shall be presumed to be correct until the contrary is shown.

Standard of  
measure-  
ment.

**92.** (1) Every measurement of land made by order of a Civil Court, or of a Revenue-officer, in any suit or proceeding between a landlord and tenant, shall be made by the acre, unless the Court or Revenue-officer directs that it may be made by any other specified standard.

(2) If the rights of the parties are regulated by any local measure other than the acre, the acre shall be converted into the local measure for the purposes of the suit or proceeding.

(Secs. 93-95.)

(3) The Local Government may, after local inquiry, make rules declaring for any local area the standard or standards of measurement locally in use in that area, and every declaration so made shall be presumed to be correct until the contrary is shown.

*Managers.*

[<sup>1</sup>]93. When any dispute exists between co-owners of an estate or tenure as to the management thereof, and in consequence there has ensued, or is likely to ensue,

Power to call upon co-owners to show cause why they should not appoint a common manager.

(a) inconvenience to the public, or

(b) injury to private rights,

the District Judge may, on the application in case (a) of the Collector, and in case (b) of anyone having an interest in the estate or tenure, direct a notice to be served on all the co-owners, calling on them to show cause why they should not appoint a common manager :

Provided that a co-owner of an estate or tenure shall not be entitled to apply under this section unless he is actually in possession of the interest he claims, and, if he is a co-owner of an estate, unless his name and the extent of his interest are registered under the Land

Ben. Act 7 of 1876. Registration Act, 1876.[<sup>2</sup>]

94. If the co-owners fail to show cause as aforesaid within one month after service of a notice under the last foregoing section, the District Judge may make an order directing them to appoint a common manager, and a copy of the order shall be served on any co-owner who did not appear before it was made.

Power to order them to appoint a manager, if cause is not shown.

95. If the co-owners do not, within such period, not being less than one month after the making of an order under the last foregoing section, as the District Judge may fix in this behalf, or, where the order has been served as directed by that section, within a like period after such service, appoint a common manager and report the appointment for the information of the District Judge, the District Judge may, unless it is shown to his satisfaction that there is a prospect of a satisfactory arrangement being made within a reasonable time,—

Power to appoint manager, if order is not obeyed.

(a) direct that the estate or tenure be managed by the Court of Wards in any case in which the Court of Wards consents to undertake the management thereof; or

(b) in any case appoint a manager.

[<sup>1</sup>] For notes to s. 93, see the Bihar and Orissa Wards' Manual, 1927, pp. 323, 324.

[<sup>2</sup>] Printed in Vol II of this Code.

(Secs. 96-99.)

**96.** The Local Government may nominate a person for any local area to manage all estates and tenures within that local area for which it may be necessary to appoint a manager under clause (b) of the last foregoing section; and, when any person has been so nominated, no other person shall be appointed manager under that clause by the District Judge, unless in the case of any estate the Judge thinks fit to appoint one of the co-owners themselves as manager.

**97.** In any case in which the Court of Wards undertakes under section 95 the management of an estate or tenure, so much of the provisions of the Court of Wards' Act, 1879.<sup>[1]</sup> as relates to the management of immovable property shall apply to the management. Ben. Act 9  
of 1879.

**98.** (1) A manager appointed under section 95 may, if the District Judge thinks fit, be remunerated by a fixed salary or percentage of the money collected by him as manager, or partly in one way and partly in the other, as the District Judge, from time to time, directs.

(2) He shall give such security for the proper discharge of his duties as the District Judge directs. -

(3) He shall, subject to the control of the District Judge, have, for the purposes of management, the same powers as the co-owners jointly might but for his appointment have exercised, and the co-owners shall not exercise any such power.

(4) He shall deal with and distribute the profits in accordance with the orders of the District Judge.

(5) He shall keep regular accounts, and allow the co-owners or any of them to inspect and take copies of those accounts.

(6) He shall pass his accounts at such period and in such form as the District Judge may direct.

(7) He may make any application which the proprietors could make under section 103.

(8) He shall be removable by the order of the District Judge and not otherwise.

<sup>[2]</sup>**99.** When an estate or tenure has been placed under the management of the Court of Wards, or a manager has been appointed for the same under section 95, the District Judge may at any time direct that the management of it be restored to the co-owners, if he is satisfied that the management will be conducted by them without inconvenience to the public or injury to private rights.

[1] Printed in Vol. II of this Code.

[2] For a note to s. 99, see the Bihar and Orissa Wards' Manual, 1927, p. 326.

(Secs 100-101)

[1] 100. The High Court may from time to time make rules defining the powers and duties of managers under the foregoing sections Power to make rules

## [2] CHAPTER X

## RECORD-OF-RIGHTS AND SETTLEMENT OF RENTS

## Part I — Record-of-rights

101. (1) The Local Government may, in any case \* \* \* \* \* \* Power to order survey and preparation of record-of rights  
 \* \* \* \* \* [3], if it thinks fit, \* \* \* \* \*  
 \* \* \* \* \* [4] make an order directing that a survey be made and a record-of-rights be prepared by a Revenue-officer in respect of the lands in any local area, estate or tenure or part thereof

(2) [In particular and without prejudice to the generality of the foregoing power the Local Government may make such an order in the following cases] [5] namely —

[6] [(a) where—

- (i) the landlord or tenants, or
- (ii) a proportion of not less than one-half of the total number of landlords, or
- (iii) a landlord or a proportion of the landlords, whose interest, or the aggregate of whose interests, respectively, in the lands of the local area, estate or tenure or part thereof is not less than one-half of the total shares of all the landlords therein, or

[1] For rules made under s 100, see the Bihar and Orissa Local Statutory Rules and Orders, Vol I Part IV

[2] This Chapter was substituted for the original Chapter X by the Bengal Tenancy (Amendment) Act, 1898 (Ben Act 3 of 1898), s 7, in Vol II of this Code. As regards proceedings under ss 104, 105 and 106 of the Bengal Tenancy Act, 1885 (8 of 1885), as originally passed, see the Bengal Tenancy (Amendment) Act 1898 (Ben Act 3 of 1898), ss 8, 9 in Vol II of this Code

Every Deputy Collector making a partition under the Estates Partition Act, 1897 (Ben Act 5 of 1897), has, as regards the estate under partition, all the powers exercisable by a Revenue officer employed in preparing a record of rights under Chapter X of the present Act, see s 44 of the former Act, in Vol II of this Code

[3] The words 'with the previous sanction of the Governor General in Council and may' in subsection (1) were repealed by the Devolution Act, 1920 (38 of 1920), s 2, and Sch I, in General Acts, 1914—20, Ed 1926, p 327, and are omitted

[4] The words 'without such sanction in any of the cases next hereinafter mentioned' in subsection (1) were repealed by *ibid*, and are omitted

[5] These words were substituted for the words "the cases in which an order may be made under this section without the previous sanction of the Governor General in Council are the following" by *ibid*, *post*, p 672

[6] This clause (a) was substituted for the original clause (a) by the Bengal Tenancy (Amendment) Act, 1907 (Ben Act 1 of 1907), s 19 (I), in Vol II of this Code. The original clause ran thus —

"where the landlord or tenants, or a large proportion of the landlords or of the tenants, apply for such an order, and deposit, or give security for, such amount for the payment of expenses as the Local Government directs."



## (Sec. 102.)

- (iv) a proportion of not less than one-fourth of the total number of tenants,  
 applies, or apply, for such an order, depositing, or giving security for, such amount for the payment of expenses as the Local Government directs;]
- (b) where the preparation of such a record is calculated to settle or avert a serious dispute existing or likely to arise between the tenants and their landlords generally;
- (c) where the local area, estate or tenure or the part thereof belongs to, or is managed by, the Government or the Court of Wards<sup>[1]</sup>[or a manager appointed by the District Judge under section 95;]
- (d) where a settlement of land-revenue is being or is about to be made in respect of the local area, estate or tenure or of the part thereof.

*Explanation 1.*—The term “settlement of land-revenue,” as used in clause (d), includes a settlement of rents in an estate or tenure which belongs to the Government.

*Explanation 2.*—A superior landlord may apply for an order under this section, notwithstanding that his estate or part thereof is temporarily leased to a tenure-holder.

(3) A notification in the official Gazette of an order under this section shall be conclusive evidence that the order has been duly made.

(4) The survey shall be made and the record-of-rights prepared in accordance with rules made in this behalf by the Local Government.

Particulars  
to be  
recorded.

**102.** Where an order is made under section 101, the particulars to be recorded shall be specified in the order, and may include, either without or in addition to other particulars, some or all of the following, namely :—

- (a) the name of each tenant or occupant;
- (b) the class to which each tenant belongs, that is to say, whether he is a tenure-holder, *raiyyat* holding at fixed rates, settled *raiyyat*, occupancy-*raiyyat*, non-occupancy-*raiyyat* or under-*raiyyat*, and, if he is a tenure-holder, whether he is a permanent tenure-holder or not, and whether his rent is liable to enhancement during the continuance of his tenure;
- (c) the situation and quantity and one or more of the boundaries of the land held by each tenant or occupier;
- (d) the name of each tenant's landlord;

[1] The words “or a manager appointed by the District Judge under section 95,” in clause (c), were added by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 19 (2), in Vol. II of this Code.

## (Sec 102A )

[<sup>1</sup>](*dd*) the name of each proprietor in the local area or estate ;]

(*e*) the rent payable at the time the record-of-rights is being prepared ,

(*f*) the mode in which that rent has been fixed—whether by contract by order of a Court, or otherwise ,

(*g*) if the rent is a gradually increasing rent, the time at which, and the steps by which, it increases ,

[<sup>2</sup>](*gg*) the rights and obligations of each tenant and landlord in respect of—

(*i*) the use by tenants of water for agricultural purposes, whether obtained from a river, *ghul*, tank or well, or any other source of supply, and

(*ii*) the repair and maintenance of appliances for securing a supply of water for the cultivation of the land held by each tenant, whether or not such appliances be situated within the boundaries of such land,]

(*h*) the special conditions and incidents, if any, of the tenancy ;

[<sup>3</sup>](*i*) any right of way or other easement attaching to the land for which a record-of-rights is being prepared ,]

[<sup>4</sup>](*j*) if the land is claimed to be held rent-free—whether or not rent is actually paid, and, if not paid, whether or not the occupant is entitled to hold the land without payment of rent, and if so entitled, under what authority

[<sup>5</sup>]**102A.** The Local Government may, for the purpose of settling or averting disputes existing or likely to arise between landlords, tenants, proprietors, or persons belonging to any of these classes, regarding the use or passage of water.

Power to order survey and preparation of record-of rights as to water

make an order directing that a survey be made and a record-of-rights be prepared, by a Revenue-officer, in order to ascertain and record the

[1] Clause (*dd*) was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben Act I of 1907), s 20 (1), in Vol II of this Code

[2] Clause (*gg*) was inserted by *ibid*, s 20 (2), and is to be deemed to have been so inserted from the commencement of the Bengal Tenancy (Amendment) Act, 1898 (Ben Act 3 of 1898), in Vol II of this Code

[3] Clause (*i*) was inserted by *ibid*, s 20 (3)

[4] This clause was formerly lettered (*i*), and was re lettered (*j*), by *ibid*, s 20 (2)

[5] S 102A was inserted by *ibid*, s 21.

## (Secs. 103-103B.)

rights and obligations of each tenant and landlord in any local area, estate or tenure or part thereof, in respect of—

- (a) the use by tenants of water for agricultural purposes, whether obtained from a river, *jhil*, tank or well, or any other source of supply; and
- (b) the repair and maintenance of appliances for securing a supply of water for the cultivation of the land held by each tenant, whether or not such appliances be situated within the boundaries of such land.

power for  
Revenue-  
officer to  
record  
particulars  
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raiyats.

**103.** On the application of one or more of the proprietors or tenure-holders, or of a large proportion of the *raiyats*, of an estate or tenure, and on the applicant or applicants depositing or giving security for the required amount for expenses, a Revenue-officer may, subject to and in accordance with, rules made in this behalf by the Local Government, ascertain and record all or any of the particulars specified in section 102 with respect to the estate or tenure or any part thereof.

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publication,  
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rights.

**103A.** (1) When a draft record-of-rights has been prepared, the Revenue-officer shall publish the draft in the prescribed manner and for the prescribed period, and shall receive and consider any objections which may be made to any entry therein, or to any omission therefrom, during the period of publication.

(2) When such objections have been considered and disposed of according to such rules as the Local Government may prescribe, and (if a settlement of land-revenue is being or is about to be made) the Settlement Rent-roll has been incorporated with the record under section 104F, sub-section (3), the Revenue-officer shall finally frame the record, and shall cause it to be finally published in the prescribed manner; and the publication shall be conclusive evidence that the record has been duly made under this Chapter.

(3) Separate draft or final records may be published under sub-section (1) or sub-section (2) for different local areas, estates, tenures or parts thereof.

assumption  
to final  
publication

[<sup>1</sup>] **103B.** (1) In any suit or other proceeding in which a record-of-rights prepared and published under this Chapter, or a duly certified

[<sup>1</sup>] This section was substituted for the former s. 103B by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 22, in Vol. II of this Code.

The former s. 103B ran thus :—

“103B. A certificate signed by the Revenue-officer, stating that a record-of-rights has been finally published under this Chapter, shall be conclusive evidence of such publication; and every entry in a record-of-rights so published shall be presumed to be correct until the contrary is proved.”

## (Sec. 104.)

copy thereof or extract therefrom, is produced, such record-of-rights shall be presumed to have been finally published, unless such publication is expressly denied; and a certificate, signed by the Revenue-officer, or by the Collector of any district in which the local area, estate or tenure or part thereof to which the record-of-rights relates is wholly or partly situate, stating that a record-of-rights has been finally published under this Chapter, shall be conclusive evidence of such publication.

(2) The Local Government may, by notification,<sup>[1]</sup> declare, with regard to any specified area, that a record-of-rights has been finally published for every village included in such area, and such notification shall be conclusive evidence of such publication.

(3) Every entry in a record-of-rights so published shall be evidence of the matter referred to in such entry, and shall be presumed to be correct until it is proved by evidence to be incorrect.

*Part II.—Settlement of Rents, preparation of Settlement Rent-roll, and [2][disposal of objections], in cases where a settlement of land-Revenue is being or is about to be made.*

**104.** In every case in which a settlement of land-revenue is being or is about to be made, the Revenue-officer shall, after publication of the draft of the record-of-rights under section 103A, sub-section (1),—

- (a) settle fair and equitable rents for tenants of every class,
- (b) notwithstanding anything contained in section 192, settle a fair and equitable rent for any land in respect of which he has recorded, in pursuance of [3] [clause (j)] of section 102, that the occupant is not entitled to hold it without payment of rent, and
- (c) prepare a Settlement Rent-Roll:

[4][Provided that the Revenue-officer shall not settle the rents of tenants of every class in an estate or tenure belonging to the Government, if it does not appear to the Local Government to be expedient that he should do so.][5]

[1] For a list of notifications issued under s. 103(B) (2), see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

[2] The words "*disposal of objections*," in this heading, were substituted for the words "*decision of disputes*," by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 23, in Vol. II of this Code.

[3] The word, letter and brackets "clause (j)" were substituted for the word, letter and brackets "clause (i)" by *ibid*, s. 24 (1).

[4] This proviso was added to s. 104 by *ibid*, s. 24 (2).

[5] For an order made under the proviso to s. 104, see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

(Secs. 104A-104B.)

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**104A.** (1) For the purposes of settling rents under this Part and preparing a Settlement Rent-roll, the Revenue-officer may proceed in any one or more of the following ways or partly in one of those ways and partly in another, that is to say,—

- (a) if in any case the landlord and tenant agree between themselves as to the amount of the rent fairly and equitably payable, the Revenue-officer shall satisfy himself that the rent so agreed upon is fair and equitable, and if he is so satisfied, but not otherwise, it may be settled and recorded as the fair and equitable rent ;
- (b) the Revenue-officer may himself propose what he deems to be the fair and equitable rent, and if the amount so proposed is accepted, either orally or in writing, by the tenant, and if the landlord, after notice to attend, raises no objection, the rent so proposed may be settled and recorded as the fair and equitable rent ;
- (c) if the circumstances are, in the opinion of the Revenue-officer, such as to make it practicable to prepare a Table of Rates showing for any local area, estate, tenure or village or part thereof, or for each class of land in any local area, estate, tenure or village or part thereof, the rate or rates of rent fairly and equitably payable by tenure-holders and *raiyats* and under-*raiyats* of each class, he may frame a Table of Rates and settle and record all or any of the rents on the basis of such rates in the manner hereinafter described ;
- (d) the Revenue-officer may settle all or any of the rents by maintaining the existing rentals recorded in the record-of-rights as published under section 103A, sub-section (1), or by enhancing or reducing such rentals :

Provided that, in making any such settlement, regard shall be had to the principles laid down in sections 6 to 9 (both inclusive), 27 to 36 (both inclusive), 38, 39, 43, 50 to 52 (both inclusive), 180 and 191.

(2) The Settlement Rent-Roll shall show the name of each landlord and of each tenant whose rent has been settled, and the amount of each such tenant's rent payable for the area shown against his name.

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**104B.** (1) If a Table of Rates is prepared, it shall specify—

- (a) the class or several classes of land for which, having regard to the nature of the soil, situation, means of irrigation,

## (Sec. 104C.)

and other like considerations, it is in the opinion of the Revenue-officer necessary or practicable to fix a rate or different rates of rent; and

- (b) the rate or rates of rent fairly and equitably payable by tenants holding land of each such class whose rent is liable to alteration.

(2) When the Revenue-officer has prepared the Table of Rates, he shall publish it in the local area, estate, tenure or village to which it relates, in the vernacular language prevailing in the district, and in the prescribed manner. Local publication of Table.

(3) Any person objecting to any entry in the Table of Rates may present a petition to the Revenue-officer within a period of one month after such publication, and the Revenue-officer shall consider any such objection and may alter or amend the Table. Revenue-officer to deal with objections.

(4) If no objection is made within the said period of one month, or, where objections are made, after they have been disposed of, the Revenue-officer shall submit his proceedings to the Revenue authority empowered by rule made by the Local Government to confirm the Tables and Rent-Rolls prepared under this Part (hereinafter called the "confirming authority"), with a full statement of the grounds of his proposals, and shall forward any petitions of objection which he may have received. Table to be submitted to superior Revenue authority.

(5) The confirming authority may confirm a Table submitted under sub-section (4), or may disallow the same, or may amend the same in any manner which appears to it proper, and may allow in whole or in part any objection forwarded therewith or subsequently made, or may return the case for further inquiry. Proceedings of confirming authority.

(6) When a Table of Rates has been confirmed by the confirming authority, the order confirming it shall be conclusive evidence that the proceedings for the preparation of the Table have been duly conducted in accordance with this Act; and it may be presumed that the rates shown in the Table for tenants of each class for each class of land, are the fair and equitable rates payable for land of that class within the area to which the Table applies. Effect of Table.

**104C.** When a Table of Rates has been confirmed under section 104B, sub-section (5), the Revenue-officer may settle all or any of the rents and prepare the Settlement Rent-Roll on the basis of the rates shown in the Table by calculating the rental of each tenure or each holding of a *rayyat* or under-*rayyat* on the area of such tenure or holding at the said rates :

## (Secs. 104D-104G.)

Provided that the Revenue-officer shall not be bound to apply the said rates in any particular case in which he may consider it unfair or inequitable to do so.

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**104D.** In framing a Table of Rates under section 104B, and in settling rents under section 104C, the Revenue-officer shall be guided by such rules as the Local Government may make in this behalf, and shall, so far as may be, and subject to the proviso to the said section 104C, have regard to the general principles of this Act regulating the enhancement or reduction of rents.

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**104E.** (1) When a Settlement Rent-Roll for a local area, estate, tenure or village or part thereof has been prepared, the Revenue-officer shall cause a draft of it to be published in the prescribed manner and for the prescribed period, and shall receive and consider any objections made to any entry therein, or omission therefrom, during the period of publication and shall dispose of such objections according to such rules as the Local Government may prescribe.

(2) The Revenue-officer may, of his own motion or on the application of any party aggrieved, at any time before a Settlement Rent-Roll is submitted to the confirming authority under section 104F, revise any rent entered therein :

Provided that no such entry shall be revised until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

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**104F.** (1) When all objections have been disposed of under section 104E, the Revenue-officer shall submit the Settlement Rent-Roll to the confirming authority with a full statement of the grounds of his proposals and a summary of the objections (if any) which he has received.

(2) The confirming authority may sanction the Settlement Rent-roll, with or without amendment, or may return it for revision :

Provided that no entry shall be amended, or omission supplied, until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

(3) After sanction by the confirming authority, the Revenue-officer shall finally frame the Settlement Rent-Roll and shall incorporate it with the record-of-rights published in draft under section 103A.

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**104G.** (1) An appeal, if presented within two months from the date of the order appealed against, shall lie from every order passed by a Revenue-officer prior to the final publication of the record-of-rights on any objection made under section 104B, sub-section (3), or section 104E ;

## (Sec. 104H.)

and such appeal shall lie to such superior Revenue authority as the Local Government may by rule prescribe.

(2) The Board of Revenue may, in any case under this Part, on application or of its own motion, direct the revision of any record-of-rights, or any portion of a record-of-rights, at any time within two years from the date of the certificate of final publication, but not so as to affect any order passed by a Civil Court under section 104H :

Provided that no such direction shall be made until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

**104H.** (1) Any person aggrieved by an entry of a rent settled in a Settlement Rent-Roll prepared under sections 104A to 104F and incorporated in a record-of-rights finally published under section 103A, or by an omission to settle a rent for entry in such Settlement Rent-roll, may institute a suit in the Civil Court which would have jurisdiction to entertain a suit for the possession of the land to which the entry relates or in respect of which the omission was made. Jurisdiction of Civil Court in matters relating to rent.

(2) Such suit must be instituted within six months from the date of the certificate of final publication of the record-of-rights, or, if an appeal has been presented to a Revenue authority under section 104G, then within six months from the date of the disposal of such appeal.

(3) Such suit may be instituted on any of the following grounds, and on no others, namely :—

- (a) that the land is not liable to the payment of rent ;
- (b) that the land, although entered in the record-of-rights as being held rent-free, is liable to the payment of rent ;
- (c) that the relation of landlord and tenant does not exist ;
- (d) that land has been wrongly recorded as part of a particular estate or tenancy, or wrongly omitted from the lands of an estate or tenancy ;
- (e) that the tenant belongs to a class different from that to which he is shown in the record-of-rights as belonging ;
- (f) that the Revenue-officer has not postponed the operation of the settled rent under the provisions of section 110, clause (a), or has wrongly fixed the date from which it is to take effect under that clause ;



## (Sec. 104J.)

'g. that the special conditions and incidents of the tenancy, [17  
[or any right of way or other easement attaching to the land  
which is the subject of the tenancy, have not or has not,  
been recorded, or have or has] been wrongly recorded.

The Secretary of State for India in Council shall not be made a defendant in any such suit unless the Government is landlord or tenant of the land to which the aforesaid entry relates or in respect of which the aforesaid omission was made.

(4) If it appears to the Court that the entry of rent settled is incorrect, it shall, in case (a) or case (c) mentioned in sub-section (3), declare that no rent is payable, and shall in any other case settle a fair rent;

and, in any case referred to in clause (f) or clause (g) of the said sub-section (3), the Court may declare the date from which the rent settled is to take effect, or pass such order relating to the entry as it may think fit.

(5) When the Court has declared under sub-section (4) that no rent is payable, the entry to the contrary effect in the record-of-rights shall be deemed to be cancelled.

(6) In settling a fair rent under sub-section (4) the Court shall be guided by the rents of the other tenures or holdings of the same class comprised in the same Settlement (Rent-Roll, as settled under sections 104A to 104F.

(7) Any rent settled by the Court under section (4) shall be deemed to have been duly settled in place of the rent entered in the Settlement Rent-Roll.

(8) Save as provided in this section, no suit shall be brought in any Civil Court in respect of the settlement of any rent or the omission to settle any rent under sections 104A to 104F.

(9) When a Civil Court has passed final orders or a decree under this section, it shall notify the same to the Collector of the district.

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tions as to  
rents settled  
under sec-  
tions 104A  
, 104G.

**104J.** Subject to the provisions of section 104H, all rents settled under sections 104A to 104F and entered in a record-of-rights finally published under section 103A, or settled under section 104G, shall be deemed to have been correctly settled and to be fair and equitable rents within the meaning of this Act.

[1] These words in square brackets in clause (g) were substituted for the words "have not been recorded, or have" by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907) s. 25, in Vol. II of this Code.

## (Sec. 105.)

*Part III.—Settlement of Rents and decision of disputes, in cases where a settlement of land-revenue is not being or is not about to be made.*

**105.** (1) When, in any case in which a settlement of land-revenue is not being made or is not about to be made, either the landlord or the tenant applies, within two months from the date of the certificate of the final publication of the record-of-rights under section 103A, sub-section (2), for a settlement of rent, the Revenue-officer shall settle a fair and equitable rent in respect of the land held by the tenant.

*Explanation.*—A superior landlord may apply for a settlement of rent notwithstanding that his estate or tenure or part thereof has been temporarily leased.

Settlement of rents by Revenue-officer in cases where a settlement of land-revenue is not being or is not about to be made

(2) When, in any case in which a settlement of land-revenue is not being made or is not about to be made, the Revenue-officer has recorded, in pursuance of [1] [clause (j)] of section 102, that the occupant of any land claimed to be held rent-free is not entitled to hold it without payment of rent, and either the landlord or the occupant applies, within two months from the date of the certificate of the final publication of the record-of-rights under section 103A, sub-section (2), for a settlement of rent, the Revenue-officer shall settle a fair and equitable rent for the land.

(3) Every application under sub-section (1) or sub-section (2) shall, notwithstanding anything contained in the Court-fees Act, 1870,[2] bear such stamp as the [local Government][3] may, from time to time, prescribe by notification[4] in the [local official Gazette][5].

(4) In settling rents under this section, the Revenue-officer shall presume, until the contrary is proved, that the existing rent is fair and equitable, and shall have regard to the rules laid down in this Act for the guidance of the Civil Court in increasing or reducing rents, as the case may be.

(5) The Revenue-officer may in any case under this section propose to the parties such rents as he considers fair and equitable; and the rents so proposed, if accepted orally or in writing by the parties, may be recorded as the fair rents, and shall be deemed to have been duly settled under this Act.

(6) Where the parties agree among themselves, by compromise or otherwise, as to the amount of the fair rent, the Revenue-officer shall

[1] The word, letter and brackets " clause (j) " were substituted for the word, letter and brackets " clause (i) " by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 24 (1), in Vol. II of this Code.

[2] Printed in General Acts, 1834-72, Ed. 1928, p. 286.

[3] These words were substituted for the words " Government of India " by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I, *post*, p. 672.

[4] For a notification issued under s 105 (3), see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

[5] These words were substituted for the words " Gazette of India " by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I, *post*, p. 672.

*(Secs. 105A-106.)*

satisfy himself that the amount agreed upon is fair and equitable, and, if so satisfied, but not otherwise, he shall record the amount so agreed upon as the fair and equitable rent. If not so satisfied, he shall himself settle a fair and equitable rent as provided in sub-sections (4) and (5).

[<sup>1</sup>]**105A.** Where, in any proceedings for the settlement of rents under this Part, any of the following issues arise :—

- (a) whether the land is, or is not, liable to the payment of rent ;
- (b) whether the land, although entered in the record-of-rights as being held rent-free, is liable to the payment of rent ;
- (c) whether the relation of landlord and tenant exists ;
- (d) whether the land has been wrongly recorded as part of a particular estate or tenancy, or wrongly omitted from the lands of an estate or tenancy ;
- (e) whether the tenant belongs to a class different from that to which he is shown in the record-of-rights as belonging ;
- (f) whether the special conditions and incidents of the tenancy, or any right of way or other easement attaching to the land have not, or has not, been recorded or have, or has, been wrongly recorded ;

the Revenue-officer shall try and decide such issue and settle the rent under section 105 accordingly :

Provided that the Revenue-officer shall not try any issue under this section, which has been, or is already, directly and substantially in issue between the same parties, or between parties under whom they or any of them claim, and has been tried and decided, or is already being tried, by a Revenue-officer in a suit instituted before him under section 106.

[<sup>2</sup>]**106.** In proceedings under this Part, a suit may be instituted before a Revenue-officer at any time within three months from the date of the certificate of the final publication of the record-of-rights under sub-section (2) of section 103A of this Act, by presenting a plaint on stamped paper, for the decision of any dispute regarding any entry which a Revenue-officer has made in, or any omission which the said officer has made from, the record,

whether such dispute be between landlord and tenant, or between landlords of the same or of neighbouring estates, or between tenant and

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[<sup>1</sup>] S. 105A was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 26, in Vol. II of this Code.

[<sup>2</sup>] It was substituted for the original s. 106 by the Bengal Tenancy (Validation and Amendment) Act, 1903 (Ben. Act I of 1903), s. 4, in Vol. II of this Code.

## (Secs. 107-108.)

tenant, or as to whether the relationship of landlord and tenant exists, or as to whether land held rent-free is properly so held, or as to any other matter;

and the Revenue-officer shall hear and decide the dispute :

Provided that the Revenue-officer may, subject to such rules as the Local Government may prescribe in this behalf, transfer any particular case or class of cases to a competent Civil Court for trial :

[<sup>1</sup>][Provided also that in any suit under this section the Revenue-officer shall not try any issue which has been, or is already, directly and substantially in issue between the same parties, or between parties under whom they or any of them claim, in proceedings for the settlement of rents under this Part, where such issue has been tried and decided, or is already being tried, by a Revenue-officer under section 105A.]

**107.** (1) [<sup>2</sup>] [In all proceedings under section 105, section 105A and section 106,] the Revenue-officer shall, subject to rules made by the Local Government under this Act, adopt the procedure laid down in the Code of Civil Procedure[<sup>3</sup>] for the trial of suits; and his decision in every such proceeding shall have the force and effect of a decree of a Civil Court in a suit between the parties, and, subject to the provisions of sections 108 and 109A, shall be final.

Procedure to be adopted by Revenue officer.

[<sup>4</sup>](2) A note of all rents settled under section 105, and of all decisions of issues or disputes under section 105A or section 106, and of all rents commuted under section 40 by a Revenue-officer appointed by the designation of Settlement Officer or Assistant Settlement Officer, shall be made in the record-of-rights finally published under sub-section (2) of section 103A; and such note shall be considered as part of the record.]

**108.** Any Revenue-officer especially [<sup>5</sup>] empowered by the Local Government in this behalf, may, on application or of his own motion, within twelve months from the making of any order or decision under

Revision by Revenue officer.

[<sup>1</sup>] This proviso was added to s. 106 by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 27, in Vol. II of this Code.

[<sup>2</sup>] These words and figures in square brackets in s. 107 (1) were substituted for the words and figures "In all proceedings for the settlement of rents under this Part, and in all proceedings under section 106," by *ibid.*, s. 28 (a).

[<sup>3</sup>] Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (5 of 1908), and this reference should now be taken to be made to that Code—see s. 158 thereof.

[<sup>4</sup>] This sub-section (2) was substituted for the original sub-section (2) by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 28 (b), in Vol. II of this Code.

The original sub-section ran thus:—

"(2) A note of all rents settled and of all decisions of disputes by the Revenue-officer under section 105 or section 106 shall be made by him in the record-of-rights finally published under section 103A, sub-section (2); and such notes shall be considered as part of the record."

[<sup>5</sup>] *Sic.* Read specially.

## (Secs. 108A-109A.)

section 105. [1] [section 105A,] section 106 or section 107, revise the same, whether it was made by himself or by any other Revenue-officer, but not so as to affect any order passed or decree made under section 109A :

Provided that no such order or decision shall be so revised if an appeal from it is pending under section 109A or until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

Correction  
by Revenue-  
officer of  
mistakes in  
record-of-  
rights.

[2] **108A.** Any Revenue-officer especially empowered by the Local Government in this behalf may, on application or of his own motion, within twelve months from the date of the certificate of the final publication of the record-of-rights under sub-section (2) of section 103A, correct any entry in such record-of-rights which he is satisfied has been made owing to a *bonâ fide* mistake :

Provided that no such correction shall be made if an appeal affecting such entry is pending under section 109A, or until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

Bar to  
jurisdiction  
of Civil  
courts.

**109.** Subject to the provisions of section 109A, a Civil Court shall not entertain any application or suit concerning any matter which is or has already been the subject of an application made, [3] [suit instituted or proceedings taken under sections 105 to 108 (both inclusive).]

Appeals  
from deci-  
sions of  
Revenue-  
officers.

**109A.** (1) The Local Government shall appoint [4] one or more persons to be a Special Judge or Special Judges for the purpose of hearing appeals from the decisions of Revenue-officers under sections 105 to 108 (both inclusive).

(2) An appeal shall lie to the Special Judge from the decisions of a Revenue-officer under sections 105 to 108A [5] (both inclusive), and the provisions of the Code of Civil Procedure [6] relating to appeals shall, as nearly as may be, apply to all such appeals. 14 of 1882.

(3) Subject to the provisions of Chapter XLII of the Code of Civil Procedure, [7] an appeal shall lie to the High Court from the decision 14 of 1882.

[1] These words in square brackets in s. 108 were inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 29, in Vol. II of this Code.

[2] S. 108A was inserted by *ibid.*, s. 30.

[3] The words, figures and brackets in square brackets in s. 109 were substituted for the words and figures "or suit instituted under ss. 105, 106, 107 or s. 108" by *ibid.*, s. 31.

[4] For a list of orders issued under s. 109A (1), see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

[5] The letter "A" was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 32, in Vol. II of this Code.

[6] Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (5 of 1908), and this reference should now be taken to that Code—see s. 158 thereof.

[7] This reference should now be taken to be made to ss. 100 to 103 and 108 of, and Order XLII in Schedule I to the Code of Civil Procedure, 1908 (5 of 1908)—see s. 158 thereof.

## (Sec. 109B.)

of a Special Judge in any case under this section (not being a decision settling a rent) as if he were a Court subordinate to the High Court within the meaning of the first section of that Chapter :

Provided that, if in a second appeal the High Court alters the decision of the Special Judge in respect of any of the particulars with reference to which the rent of any tenure or holding has been settled, the Court may settle a new rent for the tenure or holding, but in so doing shall be guided by the rents of the other tenures or holdings of the same class comprised in the same record as ascertained under section 102 or settled under section 105 or section 108.

*Part IV.—Supplemental Provisions.*

[<sup>1</sup>]109B. (1) In framing a record-of-rights, and in deciding disputes, under this Chapter, the Revenue-officer shall give effect to any lawful agreement or compromise made or entered into by any landlord and his tenant;

Power of a Revenue-officer to give effect to agreement or compromise.

but he shall not give effect to any agreement or compromise the terms of which, if they were embodied in a contract, could not be enforced under this Act.

(2) Where any agreement or compromise has been made for the purpose of settling a dispute as to the rent payable, the Revenue-officer shall,

in order to ascertain whether the effect of such agreement or compromise would be to enhance the rent in a manner, or to an extent, not allowed by section 29 in the case of a contract,

record evidence as to the rent which was legally payable immediately before the period in respect of which the dispute arose.

(3) Where the terms of any agreement or compromise are such as might unfairly or inequitably affect the rights of third parties, the Revenue-officer shall not give effect to such agreement or compromise unless and until he is satisfied by evidence that the statements made by the parties thereto are correct.

*Illustration.*—A, a proprietor, agrees that B, his tenant, shall be recorded as an occupancy-raiyat: this affects the rights of the tenants of B. The Revenue-officer must, under sub-section (3), inquire whether B is a tenure-holder or a raiyat, as defined in section 5. If he finds on the evidence that B is a raiyat, he may give effect to the agreement, but shall not do so if he finds that B is a tenure-holder.

[<sup>1</sup>] These ss. 109B to 109D were inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 33, in Vol. II of this Code.

## (Secs. 109C-110.)

Power to  
Revenue-  
officer to  
settle rents  
on agree-  
ment.

[<sup>1</sup>]109C. (1) Notwithstanding anything contained in section 109B, if, in any case while the record is being prepared, the landlord and tenant agree as to the rent which shall be recorded as payable for the tenure or holding,

a Revenue-officer specially empowered in this behalf by the Local Government may, if he is satisfied that the rent agreed upon is fair and equitable, but not otherwise, settle such rent as a fair and equitable rent, although the terms of the agreement are such that, if they were embodied in a contract, they could not be enforced under this Act ;

and the provisions of section 113 shall apply to a rent so settled.

(2) A landlord or tenant may appeal to the Special Judge appointed under section 109A on the ground that the rent settled by the Revenue-officer, under sub-section (1), as a fair and equitable rent, was not agreed to by such landlord or tenant, and on no other ground.

(3) The Board of Revenue may, on application made, or of its own motion in proceedings undertaken, within one year from the date of the order, under sub-section (1), settling a rent as a fair and equitable rent, direct the revision of the rent so settled :

Provided that no such direction shall be made until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

Note of  
decision on  
record.

[<sup>1</sup>]109D. A note of all rents settled, and of all decisions of disputes, on revision or appeal, under section 108, section 109A, or sub-section (2) or sub-section (3) of section 109C, shall be made in the record-of-rights finally published under sub-section (2) of section 103A ; and such note shall be considered as part of the record.

110. When a rent is settled by a Revenue-officer under this Chapter, it shall take effect from the beginning of the agricultural year next after the date of the decision fixing the rent or (if a settlement of land-revenue is being or is about to be made) the date of final publication of the Settlement Rent-roll :

Provided as follows :—

- (a) if the land is comprised in an area, estate or tenure in respect of which a settlement of land-revenue is being or is about to be made, the rent settled shall, subject to the provisions of sections 191 and 192, take effect from the expiration of the period of the current settlement, or from such other date after the expiration of that period as may be fixed by the Revenue-officer ;

[<sup>1</sup>] See footnote [<sup>1</sup>] on page 461 *ante*.

## (Secs. 111-111B.)

- (b) if the land is not comprised in an area, estate or tenure as aforesaid, and if the existing rent has been fixed by a contract binding between the parties for an unexpired term of years, the rent settled shall take effect from the expiration of that term, or from such other date after the expiration of that term as may be fixed by the Revenue-officer.

**111.** When an order has been made under section 101, directing the preparation of a record-of-rights, then, subject to the provisions of section 104H, a Civil Court shall not,—

- (a) where a settlement of land-revenue is being or is about to be made—until after the final publication of the record-of-rights, and
- (b) where a settlement of land-revenue is not being made or is not about to be made—until three months after the final publication of the record-of-rights,
- entertain [1] [any application made under section 158, or] any suit or application for the alteration of the rent or the determination of the status of any tenant, in the area to which the record-of-rights applies.

**111A.** No suit shall be brought in any Civil Court in respect of any order directing the preparation of a record-of-rights under this Chapter or in respect of the framing, publication, signing or attestation of such a record or of any part of it, or, save as provided in section 104H, for the alteration of any entry in such a record of a rent settled under sections 104A to 104F :

Provided that any person who is dissatisfied with any entry in, or omission from, a record-of-rights framed in pursuance of an order made under section 101, sub-section (2), clause (d), which concerns a right of which he is in possession, may institute a suit for declaration of his right under Chapter VI of the Specific Relief Act, 1877.[2]

[3]**111B.** (1) Where a record-of-rights has been prepared and finally published in respect of the land in an area in which a settlement of land-revenue is not being made, or is not about to be made, no application or suit affecting such land or any tenant thereof shall, within three months from the date of the certificate of final publication of such record-of-rights, be made or instituted in any Civil Court for the decision of any of the following issues, namely :—

- (a) whether the land is or is not liable to the payment of rent ;
- (b) whether the relation of landlord and tenant exists ;

[1] The words and figures in square brackets, in s. 111, were inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 34, in Vol. II of this Code.

[2] Printed in General Acts, 1873-86, Ed. 1928, p. 81.

[3] It was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 35, in Vol. II of this Code.



## (Sec. 112.)

(c) whether the land is part of a particular estate or tenancy;  
or

(d) whether there is any special condition or incident of the tenancy, or whether any right of way or other easement attaches to the land.

(2) If, before the final publication of the record-of-rights in such area, a suit involving the decision of any of the issues mentioned in sub-section (1) has been instituted in a Civil Court, the Revenue-officer shall not entertain any suit under section 106 involving the decision of the same issue.

(3) Where, in the course of settling fair rents under section 105, the Revenue-officer finds that, by reason of a suit involving the decision of any of the issues mentioned in sub-section (1) having been instituted in a Civil Court before the final publication of the record-of-rights, or before a Revenue-officer under section 106, he is unable to settle a fair rent until such issue is decided, the Revenue-officer shall stay the proceedings, for the settlement of a fair rent, pending a final decision on the issue;

and, after the issue has been finally decided, he shall settle a fair rent, as if the record-of-rights had been framed in accordance with such decision.

(4) Where the making of an application or institution of a suit has been delayed owing to the operation of sub-section (1), the period of three months therein mentioned shall be excluded in computing the period of limitation prescribed for such suit or application.

Power to  
authorize  
special  
settlement  
in special  
cases.

**112.** (1) The Local Government \* \* \* [1]  
may, on being satisfied that the exercise of the powers hereinafter  
mentioned is necessary in the interests of public order or of the local  
welfare,

[2][or that any landlord is demanding rents which have been  
illegally enhanced above those entered as payable in a record-of-rights  
prepared under this Chapter, invest a Revenue-officer]

with the following powers or either of them, namely :—

(a) power to settle all rents;

(b) power, when settling rents, to reduce rents if, in the opinion  
of the officer, the maintenance of existing rents would  
on any ground, whether specified in this Act or not, be  
unfair or inequitable.

[1] The words "with the previous sanction of the Governor General in Council," in sub-section (1) were repealed by the Devolution Act, 1920 (38 of 1920), section 2 and Sch. I, *post*, p. 872.

[2] This clause was substituted for the words "invest a Revenue-officer acting under this Chapter" by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 36 (1), in Vol. II of this Code.

(Secs. 113-114.)

(2) The powers given under this section may be made exercisable within a specified area either generally or with reference to specified cases or classes of cases.

[<sup>1</sup>](2a) A settlement of rents under this section shall be made in the manner provided by sections 104 to 104J (both inclusive).]

[<sup>2</sup>] \* \* \* \* \*

**113.** (1) When the rent of a tenure or holding is settled under this Chapter, it shall not, except on the ground of a landlord's improvement or of a subsequent alteration in the area of the tenure or holding, be enhanced, in the case of a tenure or an occupancy-holding or the holding of an under-*raiyat* having occupancy rights, for fifteen years, and, in the case of a non-occupancy holding or the holding of an under-*raiyat* not having occupancy rights, for five years; and no such rent shall be reduced within the periods aforesaid save on the ground of alteration in the area of the holding or on the ground specified in section 38, clause (a).

Period for which rents as settled are to remain unaltered.

(2) The said periods of fifteen years and five years shall be counted from the date on which the rent settled takes effect under this Chapter.

**114.** (1) When the preparation of a record-of-rights has been directed or undertaken under this Chapter, in any case except where a settlement of land-revenue is being or is about to be made, the expenses incurred [<sup>3</sup>]\* \* \* \* in carrying out the provisions of this Chapter in any local area, estate, tenure or part thereof (including expenses that may be incurred [<sup>4</sup>][at any time, whether before or after the preparation of the record-of-rights, in the maintenance, repair or restoration] of boundary marks and other survey marks erected for the

Expenses of proceedings under Chapter.

[<sup>1</sup>] Sub-section (2a) was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 36 (2), in Vol. II of this Code.

[<sup>2</sup>] Sub-section (3) of section 112 which was repealed by the Devolution Act, 1920 (38 of 1920), section 2 and Sch. I, *post*, p. 672, is omitted.

[<sup>3</sup>] The words "by the Government," in section 114 (1), which were repealed by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 37, (a), are omitted.

[<sup>4</sup>] These words in square brackets in section 114 (1) were substituted for the words "from time to time in the maintenance," by *ibid.*, s. 37 (b).

## (Secs. 115-115A.)

purpose of carrying out the provisions of this Chapter), or such part of those expenses as the Local Government may direct, shall be defrayed by the landlords, tenants and occupants of land in that local area, estate, tenure or part in such proportions <sup>[1]</sup>[and in such instalments (if any)] as the Local Government, having regard to all the circumstances, may determine.

<sup>[2]</sup>[(2) The estimated amount of the expenses likely to be incurred for the maintenance, repair or restoration of boundary marks for a period not exceeding fifteen years, or such part of such amount as the Local Government may direct, may be recovered in advance in the same manner as if such expenses had been already incurred.]

<sup>[3]</sup>[(3) The portion of the aforesaid expenses which any person is liable to pay shall be recoverable by the Government as if it were an arrear of land-revenue due in respect of the said local area, estate, tenure or part.<sup>[4]</sup>

<sup>[5]</sup>[(4) The cost of preparing copies of survey maps and records-of-rights under this Chapter for distribution to landlords and tenants shall be deemed to be part of the expenses incurred in carrying out the provisions of this Chapter.]

*Explanation.*—The word “tenure” in this section includes all revenue-free and rent-free tenures and holdings within a local area, estate or tenure.

**115.** When the particulars mentioned in section 102, clause (b), have been recorded under this Chapter in respect of any tenancy, the presumption under section 50 shall not thereafter apply to that tenancy.

<sup>[6]</sup> **115A.** In the demarcation of village boundaries for the purpose of making a survey and preparing a record-of-rights under this Chapter, a Revenue-officer shall, so far as is possible, and subject to the provisions

[1] The words and brackets “and in any such instalments (if any),” in s. 114 (1), were inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 37 (c), in Vol. II of this Code.

[2] The sub-section (2) was inserted by *ibid*, s. 37 (2).

[3] The original sub-section (2) was renumbered (3) by *ibid*, s. 37 (3).

[4] For an alternative method of recovering expenses, see the Land Records Maintenance Act, 1895 (Ben. Act 3 of 1895), ss. 28 to 32 and 36 (c), in Vol. II of this Code.

[5] The sub-section (4) was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 37 (4), in Vol. II of this Code.

[6] This s. 115A was inserted by *ibid*, s. 38.

(Secs. 116-119.)

of the Bengal Survey Act, 1875 [1] preserve, as the unit of survey and record, the area contained within the exterior boundaries of the village maps of the revenue survey, if any;

and, where village maps prepared at a previous revenue survey exist, he shall not, without the sanction of the Board of Revenue, adopt any other area as such unit.

## CHAPTER XI.

[2][NON-ACCRUAL OF OCCUPANCY AND NON-OCCUPANCY RIGHTS AND]  
RECORD OF PROPRIETORS' PRIVATE LANDS

**116.** Nothing in Chapter V shall confer a right of occupancy in, and nothing in Chapter VI shall apply to, Saving as to certain lands.

[3][lands acquired under the Land Acquisition Act, 1894[4] for the Government or for any Local Authority or for a Railway Company, or lands belonging to the Government within a Cantonment, while such lands remain the property of the Government, or of any Local Authority or Railway Company, or to]

a proprietor's private lands known [in Bengal as *khamar*, *nij* or *nijol*, and] in Bihar as *zirâat*, *nij*, *sir* or *khamat*, where any such land is held under a lease for a term of years or under a lease from year to year.

**117.** The Local Government may, from time to time, make an order directing a Revenue-officer to make a survey and record of all the lands in a specified local area which are a proprietor's private lands within the meaning of the last foregoing section. Power for Government to order survey and record of proprietor's private lands.

**118.** In the case of any land alleged to be a proprietor's private land, on the application of the proprietor or of any tenant of the land, and on his depositing the required amount for expense, a Revenue-officer may, subject to, and in accordance with, rules made in this behalf by the Local Government, ascertain and record whether the land is or is not a proprietor's private land. Power for Revenue-officer to record private land on application of proprietor or tenant.

**119.** When a Revenue-officer proceeds under either of the two last foregoing sections, the provisions of [5][sections 103A, 103B, 106, 107, 108, 109 and 109A] shall apply. Procedure for recording private land.

[1] Printed in Vol. II of this Code.

[2] These words in square brackets were prefixed to this heading by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 39, in Vol. II of this Code.

[3] The words in square brackets in s. 116 were inserted by *ibid*, s. 40.

[4] Printed in the General Acts, 1887-97, Ed. 1928, p. 216.

[5] The words and figures in square brackets in s. 119 were substituted for the words and figures "sections 105 to 109, both inclusive," by the Bengal Tenancy (Amendment) Act, 1898 (Ben. Act 3 of 1898), s. 10, in Vol. II of this Code.

(Secs. 120-121.)

rules for  
determina-  
tion of  
proprietor's  
private  
land

**120.** (1) The Revenue-officer shall record as a proprietor's private land—

(a) land which is proved to have been cultivated as [*khamar*,] *zirdat*, *sir*, *nij*, [*nijot*] or *kamat* by the proprietor himself with his own stock or by his own servants or by hired labour for twelve continuous years immediately before the passing of this Act, and

(b) cultivated land which is recognized by village usage as proprietor's [*khamar*,] *zirdat*, *sir*, *nij*, [*nijot*] or *kamat*.

(2) In determining whether any other land ought to be recorded as a proprietor's private land, the officer shall have regard to local custom, and to the question whether the land was, before the second day of March, 1883, specifically let as proprietor's private land, and to any other evidence that may be produced; but shall presume that land is not a proprietor's private land until the contrary is shown.

[<sup>1</sup>](2a) Notwithstanding anything contained in any agreement or compromise, or in any decree which is proved to his satisfaction to have been obtained by collusion or fraud, a Revenue-officer shall not record any land as a proprietor's private land, unless it is proved to be such by satisfactory evidence of the nature described in sub-section (1) or sub-section (2).]

(3) If any question arises in a Civil Court as to whether land is or is not a proprietor's private land, the Court shall have regard to the rules laid down in this section for the guidance of Revenue-officers.

## [<sup>2</sup>]CHAPTER XII.

### DISTRAINT.

cases in  
which an  
application  
or distraint  
may be  
made.

**121.** Where an arrear of rent is due to the landlord of a *raiyat* or under-*raiyat*, and has not been due for more than a year, and no security has been accepted therefor by the landlord, the landlord may, in addition to any other remedy to which he is entitled by law, present an application to the Civil Court requesting the Court to recover the arrear by distraining, while in the possession of the cultivator,—

(a) any crops or other products of the earth standing or ungathered on the holding;

[1] Sub-section (2a) was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 41, in Vol. II of this Code.

[2] The word "rent" in Chapter XII includes also money recoverable under any enactment for the time being in force as if it was rent—see s. 3 (5), *infra*, p. 404.

(Sec 122)

- (b) any crops or other products of the earth which have been grown on the holding and have been reaped or gathered and are deposited on the holding or on a threshing-floor or place for treading out grain or the like whether in the fields or within a homestead

Provided that an application shall not be made under this section—

- (1) by a proprietor or manager as defined under the Land Registration Act 1876<sup>[1]</sup> or a mortgagee of such a proprietor or manager unless his name and the extent of his interest in the land in respect of which the arrear is due have been registered under the provisions of that Act or
- (2) for the recovery of any sum in excess of the rent payable for the holding in the preceding agricultural year unless that sum is payable under a written contract or in consequence of a proceeding under this Act or an enactment hereby repealed; or
- (3) in respect of the produce of any part of the holding which the tenant has sub-let with the written consent of the landlord

**122.** (1) Every application under the last foregoing section shall specify— Form of application.

- (a) the holding in respect of which the arrear is claimed and the boundaries thereof or such other particulars as may suffice for its identification,
- (b) the name of the tenant,
- (c) the period in respect of which the arrear is claimed,
- (d) the amount of the arrear, with the interest, if any claimed thereon and, when an amount in excess of the rent payable by the tenant in the last preceding agricultural year is claimed, the contract or proceeding, as the case may be, under which that amount is payable,
- (e) the nature and approximate value of the produce to be distrained;
- (f) the place where it is to be found, or such other particulars as may suffice for its identification, and
- (g) if it is standing or ungathered, the time at which it is likely to be cut or gathered.

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[1] Printed in Vol. II of this Code.

(Secs. 123-125.)

(2) The application shall be signed and verified in the manner prescribed by the Code of Civil Procedure<sup>[1]</sup> for the signing and verification of plaints.

Procedure  
on receipt  
of applica-  
tion.

**123.** (1) The applicant shall, at the time of filing an application under the foregoing sections, file in Court such documentary evidence (if any) as he may consider necessary for the purposes of the application.

(2) The Court may, if it thinks fit, examine the applicant, and shall, with as little delay as possible, admit the application or reject it, or permit the applicant to furnish additional evidence in support of it.

(3) Where a Court cannot forthwith admit or reject an application under sub-section (2), it may, if it thinks fit, make an order prohibiting the removal of the produce specified in the application pending the execution of an order for distraining the same or the rejection of the application.

(4) When an order for distraining any produce is made under this section at a considerable time before the produce is likely to be cut or gathered, the Court may suspend the execution of the order for such time as it thinks fit, and may, if it thinks fit, make a further order prohibiting the removal of the produce pending the execution of the order for distraint.

Execution  
of order for  
distrain.

**124.** If an application is admitted under the last foregoing section the Court shall depute an officer to distrain the produce specified therein, or such portion of that produce as it thinks fit; and the officer shall proceed to the place where the produce is, and distrain the produce by taking charge of it himself or placing some other person in charge of it in this behalf, and publishing a notification of the distraint in accordance with rules to that effect to be made by the High Court :

Provided that produce which from its nature does not admit of being stored shall not be distrained under this section at any time less than twenty days before the time when it would be fit for reaping or gathering.

Service of  
demand and  
account.

**125.** (1) The distraining officer shall, at the time of making the distraint, serve on the defaulter a written demand for the arrear due, and the costs incurred in making the distraint, with an account exhibiting the grounds on which the distraint is made.

(2) Where the distraining officer has reason to believe that a person other than the defaulter is the owner of the property distrained, he shall serve copies of the demand and account on that person likewise.

[1] Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (5 of 1908), and this reference should be taken to be made to that Code—see s. 158 thereof.

## (Secs. 130-136.)

(3) The demand and account shall, if practicable, be served personally; but, if a person on whom they are to be served absconds or conceals himself or cannot otherwise be found, the officer shall affix copies of the demand and account on a conspicuous part of the outside of the house in which he usually resides.

**126.** (1) A distraint under this Chapter shall not prevent any person from reaping, gathering or storing any produce, or doing any other act necessary for its due preservation. Right to reap, etc., produce

(2) If the person entitled to do so fails to do so at the proper time, the distraining officer shall cause any standing crops or ungathered products distrained to be reaped or gathered when ripe, and stored in such granaries or other places as are commonly used for the purpose, or in some other convenient place in the neighbourhood, or shall do whatever else may be necessary for the due preservation of the same.

(3) In either case the distrained property shall remain in the charge of the distraining officer, or of some other person appointed by him in this behalf.

**127.** (1) Unless the demand, with all costs of the distraint, be immediately satisfied, the distraining officer shall issue a proclamation specifying the particulars of the property distrained, and the demand for which it is distrained, and notifying that he will, at a place and on a day specified, not being less than three or more than seven days after the time of making the distraint, sell the distrained property by public auction: Sale proclamation to be issued unless demand is satisfied.

Provided that when the crops or products distrained from their nature admit of being stored, but have not yet been stored, the day of the sale shall be so fixed as to admit of their being made ready for storing before its arrival.

(2) The proclamation shall be stuck up on a conspicuous place in the village in which the land is situate for which the arrears of rent are claimed.

**128.** The sale shall be held at the place where the distrained property is, or at the nearest place of public resort if the distraining officer is of opinion that it is likely to sell there to better advantage. Place of sale.

**129.** (1) Crops or products which from their nature admit of being stored shall not be sold before they are reaped or gathered and are ready for storing. When produce may be sold standing.

(2) Crops or products which from their nature do not admit of being stored may be sold before they are reaped or gathered, and the purchaser shall be entitled to enter on the land by himself, or by any person



(Secs. 130-136.)

appointed by him in this behalf, and do all that is necessary for the purpose of tending and reaping or gathering them.

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**130.** The property shall be sold by public auction, in one or more lots as the officer holding the sale may think advisable; and if the demand, with the costs of distraint and sale, is satisfied by the sale of a portion of the property the distraint shall be immediately withdrawn with respect to the remainder.

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**131.** If, on the property being put up for sale, a fair price (in the estimation of the officer holding the sale) is not offered for it, and if the owner of the property, or a person authorized to act in his behalf, applies to have the sale postponed till the next day, or (if a market is held at the place of sale) the next market-day, the sale shall be postponed until that day, and shall be then completed, whatever price may be offered for the property.

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**132.** The price of every lot shall be paid at the time of sale, or as soon thereafter as the officer holding the sale directs, and in default of such payment the property shall be put up again and sold.

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**133.** When the purchase-money has been paid in full, the officer holding the sale shall give the purchaser a certificate describing the property purchased by him and the price paid.

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**134.** (1) From the proceeds of every sale of distrained property under this Chapter, the officer holding the sale shall pay the costs of the distraint and sale, calculated on a scale of charges prescribed by rules<sup>[1]</sup> to be made, from time to time, by the Local Government in this behalf.

(2) The remainder shall be applied to the discharge of the arrear for which the distress was made, with interest thereon up to the day of sale; and the surplus (if any) shall be paid to the person whose property has been sold.

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**135.** Officers holding sales of property under this Act, and all persons employed by, or subordinate to, such officers, are prohibited from purchasing, either directly or indirectly, any property sold by such officers.

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sale.

**136.** (1) If at any time after a distraint has been made under this Chapter, and before the sale of the distrained property, the defaulter, or the owner of the distrained property, where he is not the defaulter, deposits in the Court issuing the order of distraint, or in the hands of the distraining officer, the amount specified in the demand served under section 125, with all costs which may have been incurred after the

[1] For rules made under s. 134 (1), see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

## (Secs. 137-139.)

service of the demand, the Court or officer, as the case may be, shall grant a receipt for the same, and the distraint shall forthwith be withdrawn.

(2) When the distraining officer receives the deposit, he shall forthwith pay it into the Court.

(3) A receipt granted under this section to an owner of distrained property not being the defaulter, shall afford a full protection to him against any subsequent claim for the arrears of rent on account of which the distraint was made.

(4) After the expiration of one month from the date of a deposit being made under this section, the Court shall pay therefrom to the applicant for distraint the amount due to him, unless in the meanwhile the owner of the property distrained has instituted a suit against the applicant contesting the legality of the distraint and claiming compensation in respect of the same.

(5) A landlord shall not be deemed to have consented to his tenant's sub-letting the holding or any part thereof merely by reason of his having received an amount deposited under this section by an inferior tenant.

**137.** (1) When an inferior tenant, on his property being lawfully distrained under this Chapter for the default of a superior tenant, makes any payment under the last foregoing section, he shall be entitled to deduct the amount of that payment from any rent payable by him to his immediate landlord, and that landlord, if he is not the defaulter, shall in like manner be entitled to deduct the amount so deducted from any rent payable by him to his immediate landlord, and so on until the defaulter is reached.

Amount paid by under-tenant for his lessor may be deducted from rent.

(2) Nothing in this section shall affect the right of an inferior tenant making a payment under the last foregoing section to institute a suit for the recovery from the defaulter of any portion of the amount paid which he has not deducted under this section.

**138.** When land is sub-let, and any conflict arises under this Chapter between the rights of a superior and of an inferior landlord who distrain the same property, the right of the superior landlord shall prevail.

Conflict between rights of superior and inferior landlords.

**139.** When any conflict arises between an order for distraint issued under this Chapter and an order issued by a Civil Court for the attachment or sale of the property, which is the subject of the distraint, the order for distraint shall prevail; but if the property is sold under that order, the surplus proceeds of the sale shall not be paid under section

Distraint of property which is under attachment.

(Secs. 140-143.)

134 to the owner of the property without the sanction of the Court by which the order of attachment or sale was issued.

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**140.** No appeal shall lie from any order passed by a Civil Court under this Chapter; but any person whose property is distrained on an application made under section 121, in any case in which such an application is not permitted by that section, may institute a suit against the applicant for the recovery of compensation.

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**141.** (1) When the Local Government is of opinion that in any local area or in any class of cases it would, by reason of the character of the cultivation or the habits of the cultivators, be impracticable for a landlord to realize his rent by an application under this Chapter to the Civil Court, it may, from time to time, by order, authorize the landlord to distrain, by himself or his agent, any produce for the distraint of which he would be entitled to apply under this Chapter to the Civil Court:

Provided that every person distraining any produce under such authorization shall proceed in the manner prescribed by section 124, and shall forthwith give notice, in such form as the High Court may, by rule, prescribe, to the Civil Court having jurisdiction to entertain an application for distraining the produce, and that Court shall, with no avoidable delay, depute an officer to take charge of the produce distrained.

(2) When an officer of the Court has taken charge of any distrained produce under this section, the proceedings shall thereafter be conducted in all respects as if he had distrained it under section 124.

(3) The Local Government may at any time rescind any order made by it under this section.

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**142.** The High Court may, from time to time, make rules<sup>[1]</sup>, consistent with this Act, for regulating the procedure in all cases under this Chapter.

## [2] CHAPTER XIII.

### JUDICIAL PROCEDURE.

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**143.** (1) The High Court may, from time to time, with the approval of the Governor General in Council, make rules,<sup>[3]</sup> consistent with this

[1] For rules made under s. 142, see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

[2] As to the application of ss. 143 to 153, see also s. 188A, *post*, p. 501.

[3] For rules made under s. 143, see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

(Secs. 144-147.)

- 14 of 1882. Act, declaring that any portions of the Code of Civil Procedure<sup>[1]</sup> shall in its application to landlord and tenant as such or to any specified landlord and tenant suits, not apply to suits between landlord and tenant as such or to any specified classes of such suits, or shall apply to them subject to modifications specified in the rules.

- (2) Subject to any rules so made, and subject also to the other provisions of this Act, the Code of Civil Procedure<sup>[1]</sup> shall apply to all such suits.
- 14 of 1882.

- 144.** (7) The cause of action in all suits between landlord and tenant as such shall, for the purposes of the Code of Civil Procedure<sup>[1]</sup>, in proceedings under the Civil Court which would have jurisdiction to entertain a suit for the possession of the tenure or holding in connection with which the suit is brought.
- 14 of 1882.

(2) When under this Act a Civil Court is authorised to make an order on the application of a landlord or a tenant, the application shall be made to the Court which would have jurisdiction to entertain a suit for the possession of the tenure or holding in connection with which the application is brought.

- 145.** Every *naib* or *gumashta* of a landlord empowered in this behalf by a written authority under the hand of the landlord, shall, for the purposes of every such suit or application, be deemed to be the recognized agent of the landlord within the meaning of the Code of Civil Procedure<sup>[1]</sup> notwithstanding that the landlord may reside within the local limits of the jurisdiction of the Court in which the suit is to be instituted or is pending, or in which the application is made.
- 14 of 1882.

- 146.** The particulars referred to in section 58 of the Code of Civil Procedure<sup>[2]</sup> shall, in the case of such suits, instead of being entered in the register of civil suits prescribed by that section, be entered in a special register to be kept by each Civil Court, in such form<sup>[3]</sup> as the Local Government may, from time to time, prescribe in this behalf.
- 14 of 1882.

- 147.** Subject to the provisions of section 373 of the Code of Civil Procedure<sup>[4]</sup> where a landlord has instituted a suit against a *raiyat* for successive rent-suits.
- 1 of 1882.

[1] Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (5 of 1908), and this reference should now be taken to be made to that Code—see s. 158 thereof.

[2] This reference should now be taken to be made to rule 2 in Order IV and rule 1 in Order VII in Schedule I to the Code of Civil Procedure, 1908 (5 of 1908)—see s. 158 thereof.

[3] For an order made under s. 146, see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

[4] This reference should now be taken to be made to rule 1 in Order XXIII in Schedule I to the Code of Civil Procedure, 1908 (5 of 1908)—see s. 158 thereof.

## (Sec. 147A.)

the recovery of any rent of his holding, the landlord shall not institute another suit against him for the recovery of any rent of that holding until after three months from the date of the institution of the previous suit.

compromise  
suits  
between  
landlord and  
tenant.

[<sup>1</sup>]147A. (1) The provisions of section 375 of the Code of Civil Procedure [<sup>2</sup>] shall not apply to any suit between landlord and tenant as 14 of 1882. such.

(2) If any suit between landlord and tenant as such is adjusted wholly or in part by any lawful agreement or compromise, or if the defendant satisfies the plaintiff in respect to the whole or any part of the matter of the suit, the Court shall pass a decree in accordance with such agreement, compromise or satisfaction, so far as it relates to the suit.

Provided that no decree shall be passed in accordance with any agreement or compromise the terms of which, if they were embodied in a contract, could not be enforced under this Act.

(3) Where any agreement or compromise has been made for the purpose of settling a dispute as to the rent payable, the Court shall,

in order to ascertain whether the effect of such agreement or compromise would be to enhance the rent in a manner, or to an extent, not allowed by section 29 in the case of a contract,

record evidence as to the rent which was legally payable immediately before the period in respect of which the dispute arose.

(4) Where the terms of any agreement or compromise are such as might unfairly or inequitably affect the rights of third parties, the Court shall not pass a decree in accordance with such agreement or compromise, unless and until it is satisfied by evidence that the statements made by the parties thereto are correct.

*Illustration.*—A, a proprietor, agrees that B, his tenant, shall be recorded as an occupancy-ryayat: this affects the rights of the tenants of B. The Court must, under sub-section (4), inquire whether B is a tenure-holder or a ryayat as defined in section 5. If the Court finds on the evidence that B is a ryayat, it may pass a decree in accordance with the agreement, but shall not do so if it finds that B is a tenure-holder.

(5) A decree passed in accordance with any lawful agreement, compromise or satisfaction shall be final so far as it relates to so much of

[1] This s. 147A was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 42, in Vol. II of this Code.

[2] This reference should now be taken to be made to rule 3 in Order XXIII in Schedule I to the Code of Civil Procedure, 1908 (5 of 1908)—see s. 158 thereof.

## (Secs 147B-148.)

the subject-matter of the suit as is dealt with by such agreement compromise or satisfaction

[<sup>1</sup>]147B. In all areas for which a record-of-rights has been prepared and finally published under sub-section (2) of section 103A a Civil Court shall, in all suits between landlord and tenant as such, have regard to the entries in such record-of-rights relating to the subject-matter in dispute which may be produced before it unless such entries have been proved by evidence to be incorrect, and when a Civil Court passes a decree at variance with such entries, it shall record its reasons for so doing

Regard to be had by Civil Courts to entries in record of rights

148. The following rules shall apply to suits for the recovery of rent —

Procedure in rent suits

(a) sections 121 to 127 (both inclusive), 129 305 and 320 to 326 (both inclusive) of the Code of Civil Procedure<sup>[2]</sup> shall not apply to any such suit

(b) the plaint shall contain, in addition to the particulars specified in section 50 of the Code of Civil Procedure <sup>[3]</sup> a statement of the situation, designation, extent and boundaries of the land held by the tenant; or, where the plaintiff is unable to give the extent or boundaries, in lieu thereof a description sufficient for identification

[<sup>4</sup>](b1) where the suit is for the rent of land situated within an area for which a record-of-rights has been prepared and finally published, the plaint shall further contain a list of the survey plots comprised in the tenancy and a statement of the rental of the tenancy according to the record-of-rights, unless the Court is satisfied, for reasons to be recorded in writing, that the plaintiff was prevented by any sufficient cause from furnishing such list or statement

Provided that, in all cases in which the Court admits a plaint which does not contain such statement, the Court shall, and in any other case in which it sees fit the Court may, require

[1] S 147B was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben A of 1907), s 42, in Vol II of this Code

[2] Act 14 of 1882 has been repealed and re enacted by the Code of Civil Procedure 1908 (5 of 1908), and this reference should now be taken to be made to ss 68, 70, 71 and 72 of, and to rules 1 to 13 in Order XI, rule 83 in Order XXI and rule 2 in order XLVIII in Schedule I and to Schedule III, to that Code—see s 158 thereof

[3] This reference should now be taken to be made to rules 1 to 8 in Order VII in Schedule I to the Code of Civil Procedure, 1908 (5 of 1908)—see s. 158, thereof.

[4] This clause (b1) was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben Act 1 of 1907), s 43 (1), in Vol II of this Code

(See 145.)

the Collector to supply, without payment of fee, a verified or certified copy of, or extract from, the record-of-rights relating to the tenancy :

[1](b2) where an alteration has been made in the area of the tenancy since the record-of-rights was prepared and finally published, the plaint shall further contain a statement of the rental of the original tenancy according to the record-of-rights, together with a statement showing how the amount of rent claimed in the suit has been computed :

(c) the summons shall be for the final disposal of the suit, unless the Court is of opinion that the summons should be for the settlement of issues only :

(d) the service of the summons may, if the High Court by rule, either generally, or specially for any local area, so directs, be effected either in addition to, or in substitution for, any other mode of service, by forwarding the summons by post in a letter addressed to the defendant and registered under Part III of the Indian Post Office Act, 1866 :<sup>[2]</sup>

14 of 1866.

when a summons is so forwarded in a letter, and it is proved that the letter was duly posted and registered, the Court may presume that the summons has been duly served :

(e) a written statement shall not be filed without the leave of the Court :

(f) the rules for recording the evidence of witnesses prescribed by section 189 of the Code of Civil Procedure<sup>[3]</sup> shall apply, 14 of 1882. whether an appeal is allowed or not :

[4](ff) when any account books, rent-rolls, collection-papers, measurement-papers or maps have been produced by the landlord before any Court, and have been admitted in evidence in a suit pending therein,

[1] Clause (b2) was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 43 (1), in Vol. II of this Code.

[2] Act 11 of 1866 has been repealed and re-enacted by the Indian Post Office Act, 1898 (3 of 1898), and this reference should now be construed as a reference to Chapter VI of the latter Act (in General Acts, 1898-09, Ed. 1928, p. 20)—see the General Clauses Act, 1897 (10 of 1897), s. 8 (in *ibid.*, 1887-97, Ed. 1928, p. 344).

[3] Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure 1908 (5 of 1908), and this reference should now be taken to be made to rule 13 in Order XVIII in Schedule I to that Code—see s 158 thereof.

[4] This clause (ff) was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 43 (2), in Vol. II of this Code.

(Secs. 148A-149.)

copies of, or extracts from, such documents, certified by a duly authorized officer of such Court to be true copies or extracts, may, with the permission of the Court, be substituted on the record for the originals, which may then be returned to the landlord;

and thereafter copies and extracts, so certified, may be admitted in evidence in any other suit instituted in the same or any other Court, unless the Court before which they are produced sees fit to require the production of the originals :

(g) the Court may, when passing the decree, order on the oral application of the decree-holder the execution thereof, unless it is a decree for ejectment for arrears :

(h) notwithstanding anything contained in section 232 of the Code of Civil Procedure,<sup>[1]</sup> an application for the execution of a decree for arrears obtained by a landlord shall not be made by an assignee of the decree unless the landlord's interest in the land has become and is vested in him.

[<sup>2</sup>]148A. Where a co-sharer landlord who has instituted a suit to recover the rent due to all the co-sharer landlords in respect of an entire tenure or holding, and has made all the remaining co-sharers parties defendant to the suit, is unable to ascertain what rent is due for the whole tenure or holding, or whether the rent due to the other co-sharer landlords has been paid or not, owing to the refusal or neglect of the tenant, or of the co-sharer landlords defendant to the suit, to furnish him with correct information on these points, or on either of them,

Suits for  
arrears of  
rent by  
co-sharer  
landlords.

such plaintiff co-sharer landlord shall be entitled to proceed with the suit for his share only of the rent ;

and a decree obtained by him in a suit so framed shall, as regards the remedies for enforcing the same, be as effectual as a decree obtained by a sole landlord or an entire body of landlords in a suit brought for the rent due to all the co-sharers.

149. (1) When a defendant admits that money is due from him on account of rent, but pleads that it is due not to the plaintiff, but to a

Payment  
into Court  
of money  
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[1] Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (5 of 1908), and this reference should now be taken to be made to rule 16 in Order XXI in Schedule I to that Code—see s. 158 thereof.

[2] This s. 148A was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 44, in Vol. II of this Code.



(Secs. 150-153.)

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on. third person, the Court shall[1] \* \* \* \* refuse to take cognizance of the plea unless the defendant pays into Court the amount so admitted to be due.

(2) Where such a payment is made, the Court shall forthwith cause notice of the payment to be served on the third person.

(3) Unless the third person within three months from the receipt of the notice institutes a suit against the plaintiff and therein obtains an order restraining payment out of the money, it shall be paid out to the plaintiff on his application.

(4) Nothing in this section shall affect the right of any person to recover from the plaintiff money paid to him under sub-section (3).

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lord. **150.** When a defendant admits that money is due from him to the plaintiff on account of rent, but pleads that the amount claimed is in excess of the amount due, the Court shall[1] \* \* \* \* refuse to take cognizance of the plea unless the defendant pays into Court the amount so admitted to be due.

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ey. **151.** When a defendant is liable to pay money into Court under either of the two last foregoing sections, if the Court thinks that there are sufficient reasons for so ordering, it may take cognizance of the defendant's plea on his paying into Court such reasonable portion of the money as the Court directs.

**152.** When a defendant pays money into Court under either of the said sections, the Court shall give the defendant a receipt, and the receipt so given shall operate as an acquittance in the same manner and to the same extent as if it had been given by the plaintiff or the third person, as the case may be.

seals in  
suits. **153.** An appeal shall not lie from any decree or order passed, whether in the first instance or on appeal, in any suit instituted by a landlord for the recovery of rent where—

(a) the decree or order is passed by a District Judge, Additional Judge or Subordinate Judge, and the amount claimed in the suit does not exceed one hundred rupees, or

(b) the decree or order is passed by any other judicial officer specially empowered by the Local Government to exercise final jurisdiction under this section, and the amount claimed in the suit does not exceed fifty rupees;

[1] The words "except for special reasons to be recorded in writing," in s. 149 (1) and s. 150, which were repealed by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 45, are omitted.

## (Secs. 153.1-154.)

unless in either case the decree or order has decided a question relating to title to land or to some interest in land as between parties having conflicting claims thereto, or a question of a right to enhance or vary the rent of a tenant, or a question of the amount of rent annually payable by a tenant :

Provided that the District Judge may call for the record of any case in which a judicial officer as aforesaid has passed a decree or order to which this section applies, if it appears that the judicial officer has exercised a jurisdiction not vested in him by law, or has failed to exercise a jurisdiction so vested or has acted in the exercise of his jurisdiction illegally or with material irregularity, and may pass such order as the District Judge thinks fit.

[1][*Explanation*.—A question as to the regularity of the proceedings in publishing or conducting a sale in execution of a decree for arrears of rent is not a question relating to title to land or to some interest in land as between parties having conflicting claims thereto.]

[2]**153A.** Every application for an order under section 108 of the Code of Civil Procedure<sup>[3]</sup> to set aside a decree passed *ex parte*, or for a review of judgment, under section 623 of the said Code,<sup>[4]</sup> in a suit between a landlord and tenant as such, shall contain a statement of the injury sustained by the applicant by reason of the decree or judgment;

Deposit on application to set aside *ex-parte* decree.

and no such application shall be admitted—

(a) unless the applicant has, at or before the time when the application is admitted, deposited in the Court to which the application is presented the amount, if any, which he admits to be due from him to the decree-holder, or such amount as the Court may, for reasons to be recorded by it in writing, direct ; or

(b) unless the Court, after considering the statement of injury, is satisfied, for reasons to be recorded by it in writing, that no such deposit is necessary.

**154.** A decree for enhancement of rent under this Act, if passed in a suit instituted in the first eight months of an agricultural year, shall

Date from which decree

[1] This *Explanation* was added to s. 153 by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 46, in Volume II of this Code.

[2] S. 153A was inserted by *ibid*, s. 47.

[3] Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (5 of 1908), and this reference should now be taken to be made to rule 13 in Order IX in Sch. I to that Code—see s. 158 thereof.

[4] This reference should now be taken to be made to rule 1 in Order XLVII in Sch. I to the Code of Civil Procedure, 1908 (5 of 1908)—see s. 158 thereof.

(Secs. 155-156.)

for enhance-  
ment takes  
effect.

ordinarily take effect on the commencement of the agricultural year next following; and, if passed in a suit instituted in the last four months of the agricultural year,[<sup>1</sup>] shall ordinarily take effect on the commencement of the agricultural year next but one following; but nothing in this section shall prevent the Court from fixing, for special reasons, a later date from which any such decree shall take effect.

Relief  
against for-  
feitures.

**155.** (1) A suit for the ejectment of a tenant, on the ground—

- (a) that he has used the land in a manner which renders it unfit for the purposes of the tenancy, or
- (b) that he has broken a condition on breach of which he is, under the terms of a contract between him and the landlord, liable to ejectment,

shall not be entertained unless the landlord has served, in the prescribed manner, a notice on the tenant specifying the particular misuse or breach complained of, and, where the misuse or breach is capable of remedy, requiring the tenant to remedy same, and, in any case, to pay reasonable compensation for the misuse or breach, and the tenant has failed to comply within a reasonable time with that request.

(2) A decree passed in favour of a landlord in any such suit shall declare the amount of compensation which would reasonably be payable to the plaintiff for the misuse or breach, and whether, in the opinion of the Court, the misuse or breach is capable of remedy, and shall fix a period during which it shall be open to the defendant to pay that amount to the plaintiff and, where the misuse or breach is declared to be capable of remedy, to remedy the same.

(3) The Court may, from time to time, for special reasons, extend a period fixed by it under sub-section (2).

(4) if the defendant, within the period or extended period (as the case may be) fixed by the Court under this section, pays the compensation mentioned in the decree, and, where the misuse or breach is declared by the Court to be capable of remedy, remedies the misuse or breach to the satisfaction of the Court, the decree shall not be executed.

rights of  
ejected  
rakyat in  
respect of  
crops and  
and prepa-  
ed for  
owing.

**156.** The following rules shall apply in the case of every *rakyat* ejected from a holding : —

- (a) when the *rakyat* has, before the date of his ejectment, sown or planted crops in any land comprised in the holding, he shall be entitled, at the option of the landlord, either to retain possession of that land and to use it for the purpose

[1] For definition of " agricultural year, " see s. 3 (11), *ante*, p. 405.

(Secs. 157-159.)

of tending and gathering in the crops, or to receive from the landlord the value of the crops as estimated by the Court executing the decree for ejectment;

- (b) when the *raiyat* has, before the date of his ejectment, prepared for sowing any land comprised in his holding, but has not sown or planted crops in that land, he shall be entitled to receive from the landlord the value of the labour and capital expended by him in so preparing the land, as estimated by the Court executing the decree for ejectment, together with reasonable interest on that value;
- (c) but a *raiyat* shall not be entitled to retain possession of any land or receive any sum in respect thereof under this section where, after the commencement of proceedings by the landlord for his ejectment, he has cultivated or prepared the land contrary to local usage; and
- (d) if the landlord elects under this section to allow a *raiyat* to retain possession of the land, the *raiyat* shall pay to the landlord, for the use and occupation of the land during the period for which he is allowed to retain possession of the same, such rent as the Court executing the decree for ejectment may deem reasonable.

**157.** Where a plaintiff institutes a suit for the ejectment of a trespasser he may, if he thinks fit, claim as alternative relief that the defendant be declared liable to pay for the land in his possession a fair and equitable rent to be determined by the Court, and the Court may grant such relief accordingly.

Power for Court to fix fair rent as alternative to ejectment.

**158.** (1) [1] [Subject to the provisions of section 111,] the Court having jurisdiction to determine a suit for the possession of land may, on the application of either the landlord or the tenant of the land, determine all or any of the following matters, namely:—

Application to determine incidents of tenancy.

- (a) the situation, quantity and boundaries of the land;
- (b) the name and description of the tenant thereof (if any);
- (c) the class to which he belongs, that is to say, whether he is a tenure-holder, *raiyat* holding at fixed rates, occupancy-*raiyat*, non-occupancy-*raiyat*, or under-*raiyat*, and, if he is a tenure-holder, whether he is a permanent tenure-holder or not, and whether his rent is liable to enhancement during the continuance of his tenure; and
- (d) the rent payable by him at the time of the application.

[1] These words in square brackets in s. 158 (1) were inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 48, in Vol. II of this Code.

(Sec. 158A.)

(2) If, in the opinion of the Court, any of these matters cannot be satisfactorily determined without a local inquiry, the Court may direct that a local inquiry be held under Chapter XXV of the Code of Civil Procedure<sup>[1]</sup> by such Revenue-officer as the Local Government may authorize in that behalf by rule made under section 392<sup>[2]</sup> of the said Code.

(3) The order on any application under this section shall have the effect of, and be subject to the like appeal as, a decree.

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[<sup>3</sup>]CHAPTER XIII A.

SUMMARY PROCEDURE FOR THE RECOVERY OF RENTS UNDER THE BIHAR B. & O.  
AND ORISSA PUBLIC DEMANDS RECOVERY ACT, 1914.<sup>[4]</sup> Act 4 of 1914.

Recovery of  
arrears by  
the certifi-  
cate proce-  
dure in cer-  
tain areas.

**158A.** (1) Any landlord (other than the Government) whose land is situate in an area for which a record-of-rights has been prepared and finally published, and in which such record is maintained,

may apply to the Local Government, through the Collector of the district in which his land is situate, for the application of the procedure prescribed by the Bihar and Orissa Public Demands Recovery Act, 1914,<sup>[4]</sup> to the recovery of the arrears of rent which he alleges are, or may accrue, due to him for lands in such area. B. & O. Act 4 of 1914.

(2) The Local Government may reject any such application, or may allow it subject to such terms and conditions as it may see fit to impose, and may at any time add to or vary any terms or conditions so imposed, or withdraw its allowance of the application, without, in any of these cases, assigning any reason for its action.

(3) When any such application has been allowed, the landlord may make a requisition in writing, in the form prescribed, to such

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[1] Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (5 of 1908), and this reference should now be taken to be made to s. 78 of, and Order XXVI in Sch. I to, that Code—see s. 158 thereof.

[2] This reference should now be taken to be made to rule 9 in Order XXVI in Sch. I to the Code of Civil Procedure, 1908 (5 of 1908),—see s. 158 thereof.

[3] Chapter XIII A (s. 158A) was substituted for the original Chapter XIII A by the Bihar and Orissa Public Demands Recovery Act, 1914 (B. and O. Act 4 of 1914), s. 69, and Sch. III in Vol. III of this Code.

[4] Printed in Vol. III of this Code.

## (Sec. 158A.)

B. & O.  
Act 4 of  
1914.

Revenue-officer as the Local Government may appoint, for the purpose of this section, to perform the functions of a Certificate Officer under the Bihar and Orissa Public Demands Recovery Act, 1914,<sup>[1]</sup> for the recovery of any arrears of rent which he alleges are due to him from any tenant.

7 of 1870.

(4) Every such requisition shall be signed and verified by the landlord making it in the manner prescribed by rule I in Schedule II to the said Act, as amended for the time being by rules made under section 89 thereof, and shall be chargeable with a fee of the amount which would be payable under the Court-fees Act, 1870,<sup>[2]</sup> in respect of a plaint for the recovery of a sum of money equal to that stated in the requisition as being due.

(5) On receipt of any such requisition, the said Revenue-officer may, in accordance with such rules as the Local Government may prescribe in this behalf, and if he is satisfied that the arrear is due, sign a certificate, in the prescribed form, stating that the arrear is due; and shall include in the certificate the fee paid under sub-section (4), and shall cause the certificate to be filed in his office :

Provided that—

(a) no certificate shall be signed for the recovery of arrears of rent of a tenancy regarding which a suit has been instituted in a Civil Court for the alteration of the rent payable by the tenant or the determination of his status as a tenant, in respect of the period during which it is alleged in the requisition made under sub-section (3) that the arrears of rent sought to be recovered have accrued ; and

(b) if, after the signing of a certificate, it is found that such a suit was instituted in a Civil Court before the certificate was signed, such certificate shall be cancelled.

(6) The person in whose favour any certificate is signed under sub-section (5) shall be deemed to be the certificate-holder for the amount mentioned in the certificate, and the person against whom the certificate is signed shall be deemed to be the certificate debtor for the said amount ; and all the proceedings taken by the certificate officer for the recovery of such amount shall be taken at the instance of the first mentioned person, and at his cost and responsibility and not otherwise.

[1] Printed in Vol. III of this Code.

[2] Printed in General Acts, 1834-72, Ed. 1923, p. 286. The Act has been amended in its application to Bihar and Orissa by the B. & O. Court-fees (Amendment) Act, 1922 (B. and O. Act 2 of 1922), in Vol. III of this Code.

## (Sec. 158B.)

(7) The Bihar and Orissa Public Demands Recovery Act, 1914<sup>[1]</sup>, with such restrictions and modifications (if any) as may be prescribed, shall apply to the execution and to all proceedings arising out of the execution, of certificates filed under sub-section (5). B. & O. Act  
4 of 1914.

(8) No landlord shall, during the pendency of any proceedings under this section, institute a suit in a Civil Court for the recovery of any arrears of rent in respect of which he has made a requisition under sub-section (3);

and, subject to the provisions of section 43 of the Bihar and Orissa Public Demands Recovery Act, 1914,<sup>[2]</sup> no tenant shall, after the signing of any certificate against him under sub-section (5) of this section, institute a suit in, or apply to, a Civil Court for the alteration of the rent payable by him, or the determination of his status as a tenant, in respect of the period during which the arrears of rent for which such certificate was signed have accrued. B. & O.  
Act 4 of  
1914

(9) The word "landlord" in this section includes an entire body of landlords, and also one or more co-sharer landlords who collect or collect his or their share or shares of the rent separately; and, where a Revenue-officer signs a certificate on the requisition of one or more such co-sharer landlords, he shall at the same time issue to each of the remaining co-sharer landlords a copy of such certificate.

[<sup>2</sup>]CHAPTER XIV.

## SALE FOR ARREARS UNDER DECREE.

Passing  
of tenure or  
holding sold  
in execution  
of decree.

**158B.**<sup>[3]</sup> (1) Where a tenure or holding is sold in execution of—  
(a) a decree for arrears of rent due in respect thereof; or (b) a decree for damages under section 186A; or (c) a certificate for arrears of rent signed under the Bihar and Orissa Public Demands Recovery Act, 1914, the tenure or holding shall, subject to the provisions of section 28, pass to the purchaser, if such decree was obtained by— B. & O. Act  
4 of 1914.

(i) a sole landlord; or

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[1] Printed in Vol. III of this Code.

[2] The word "rent", in Chapter XIV, includes also money recoverable under any enactment for the time being in force as if it was rent—see s. 3 (5), *ante*, p. 404.

As to the extended application of Chapter XIV, see s. 158A (5), *ante*, p. 485, and s. 188A, *post*, p. 501.

[3] Substituted by Bihar and Orissa Public Demands Recovery Act, 1914 (B. and O. Act 4 of 1914), s. 69, and Sch. III, Part I, in Vol. III of this Code.

(Secs. 159-160.)

- (ii) the entire body of landlords; or
  - (iii) one or more co-sharer landlords who has or have sued for the rent due to all the co-sharers in respect of the entire tenure or holding and made all the remaining co-sharers parties defendant to the suit, or
- if such certificate was signed on the requisition of or in favour of, a sole landlord or the entire body of landlords.

[1](2) When one or more co-sharer landlords, having obtained a decree in a suit framed under sub-section (1) or under section 148A, applies, or apply, for the execution of the decree by the sale of the tenure or holding, the Court shall, before proceeding to sell the tenure or holding, give notice of the application for execution to the other co-sharers.

**159.** Where a tenure or holding is sold in execution of a decree for arrears due in respect thereof, the purchaser shall take subject to the interests defined in this Chapter as "protected interests," but with power to annul the interests defined in this Chapter as "incumbrances":

General powers of purchaser as to avoidance of incumbrances.

Provided as follows:—

- (a) a registered and notified incumbrance within the meaning of this Chapter shall not be so annulled except in the case hereinafter mentioned in that behalf;
- (b) the power to annul shall be exercisable only in manner by this Chapter directed.

**160.** The following shall be deemed to be protected interests within the meaning of this Chapter:—

Protected interests.

- (a) any under-tenure existing from the time of the Permanent Settlement;
- (b) any under-tenure recognized by the settlement-proceedings of any current temporary settlement as a tenure at a rent fixed for the period of that settlement;
- (c) any lease of land whereon dwelling-houses, manufactories or other permanent buildings have been erected, or permanent gardens, plantations, tanks, canals, places of worship or burning or burying grounds have been made;
- (d) any right of occupancy;
- (e) the right of a non-occupancy-*raiyat* to hold for five years at a rent fixed under Chapter VI by a Court, or under Chapter X by a Revenue-officer;
- (f) any right conferred on an occupancy-*raiyat* to hold at a rent which was a fair and reasonable rent at the time the right was conferred; and

[1] Clause (2) was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Pen. Act I of 1907), s. 50, in Vol. II of this Code.



(Secs. 161-163.)

- (g) any right or interest which the landlord at whose instance the tenure or holding is sold, or his predecessor in title, has expressly and in writing given the tenant for the time being permission to create.

Meaning of  
"incum-  
brance"  
and

**161.** For the purposes of this Chapter :—

- (a) the term "incumbrance," used with reference to a tenancy means any lien, sub-tenancy, easement or other right or interest created by the tenant on his tenure or holding or in limitation of his own interest therein, and not being a protected interest as defined in the last foregoing section;

"registered  
and notified  
incum-  
brance"

- (b) the term "registered and notified incumbrance," used with reference to a tenure or holding sold or liable to sale in execution of a decree for an arrear of rent due in respect thereof, means an incumbrance created by a registered instrument, of which a copy has, not less than three months before the accrual of the arrear, been served on the landlord in manner hereinafter provided;

[<sup>1</sup>](c) the terms "arrear" and "arrear of rent" shall be deemed to include interest decreed under section 67 or damages awarded in lieu of interest under sub-section (1) of section 68].

Application  
for sale of  
tenure or  
holding.

**162.** When a decree has been passed for an arrear of rent due for a tenure or holding, and the decree-holder applies under section 235 of the Code of Civil Procedure[<sup>2</sup>] for the attachment and sale of the 14 of 1882. tenure or holding in execution of the decree, he shall produce a statement showing the *pargana*, estate and village in which the land comprised in the tenure or holding is situate, the yearly rent payable for the same and the total amount recoverable under the decree.

Order of  
attachment  
and pro-  
clamation  
of sale to  
be issued  
simultane-  
ously.

**163.** (1) Notwithstanding anything contained in the Code of Civil Procedure,[<sup>3</sup>] when the decree-holder makes the application mentioned 14 of 1882. in the last foregoing section, the Court shall, if under section 245 of the said Code[<sup>4</sup>] it admits the application and orders execution of the

[<sup>1</sup>] Clause (c) was added to s. 161 by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 51, in Vol. II of this Code.

[<sup>2</sup>] Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (5 of 1908), and this reference should now be taken to be made to rule 11 (2) in Order XXI in Sch. I to that Code—see s. 158 thereof.

[<sup>3</sup>] This reference should now be taken to be made to the Code of Civil Procedure, 1908 (5 of 1908)—see s. 158 thereof.

[<sup>4</sup>] This reference should now be taken to be made to rule 17 in Order XXI in Sch. I to the Code of Civil Procedure, 1908 (5 of 1908)—see s. 158 thereof.

## (Sec. 164.)

decree as applied for, issue simultaneously the order of attachment and the proclamation required by section 287 of the said Code.[<sup>1</sup>]

14 of 1882. (2) The proclamation shall, in addition to stating and specifying the particulars mentioned in section 287 of the said Code[<sup>2</sup>], announce—

(a) in the case of a tenure or a holding of a *raiyat* holding at fixed rates, that the tenure or holding will first be put up to auction subject to the registered and notified incumbrances, and will be sold subject to those incumbrances if the sum bid is sufficient to liquidate the amount of the decree and costs, and that otherwise it will, if the decree-holder so desires, be sold on a subsequent day, of which due notice will be given with power to annul all incumbrances; and

(b) in the case of an occupancy-holding, that the holding will be sold with power to annul all incumbrances.

14 of 1882. (3) The proclamation shall, besides being made in the manner prescribed by section 289 of the said Code[<sup>3</sup>], be published by fixing up a copy thereof in a conspicuous place on the land comprised in the tenure or holding ordered to be sold, and shall also be published in such manner as the [Board of Revenue][<sup>4</sup>] may, from time to time, direct[<sup>5</sup>] in this behalf.

14 of 1882. (4) Notwithstanding anything contained in section 290 of the said Code,[<sup>6</sup>] the sale shall not, without the consent in writing of the judgment-debtor, take place until after the expiration of at least thirty days, calculated from the date on which the copy of the proclamation has been fixed up on the land comprised in the tenure or holding ordered to be sold.

**164.** (1) When a tenure or a holding at fixed rates has been advertised for sale under the last foregoing section, it shall be put up to auction subject to registered and notified incumbrances; and, if the bidding

Sale of tenure or holding subject to registered

[1] This reference should now be taken to be made to ss. 129 and 131 of, and rules 66 and 70 in Order XXI in Sch. I to, the Code of Civil Procedure, 1908 (5 of 1908)—*see* s. 158 thereof.

[2] Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (5 of 1908), and this reference should now be taken to be made to ss. 129 and 131 of, and rules 66 and 70 in Order XXI in Sch. I to, that Code—*see* s. 158 thereof.

[3] This reference should now be taken to be made to rule 67 in Order XXI of Sch. I to the Code of Civil Procedure, 1908 (5 of 1908)—*see* s. 158 thereof.

[4] These words were substituted for the words "Local Government" by the Bihar and Orissa Decentralization Act, 1916 (B. and O. Act 3 of 1916), s. 2 and Sch. Part II, in Vol. III of this Code.

[5] For an order made under s. 163 (3), *see* the Bihar and Orissa Local Statutory Rules and Orders. Vol. I, Part IV.

[6] This reference should now be taken to be made to rule 68 in Order XXI in Sch. I to the Code of Civil Procedure, 1908 (5 of 1908)—*see* s. 158 thereof.

(Secs. 165-167.)

and notified reaches a sum sufficient to liquidate the amount of the decree and costs, including the costs of sale, the tenure or holding shall be sold subject to such incumbrances.

(2) The purchaser at a sale under this section may, in manner provided by section 167, and not otherwise, annul any incumbrance upon the tenure or holding not being a registered and notified incumbrance.

Sale of tenure or holding with power to avoid all incumbrances, and effect thereof.

**165.** (1) If the bidding for a tenure or a holding at fixed rates put up to auction under the last foregoing section does not reach a sum sufficient to liquidate the amount of the decree and costs as aforesaid, and if the decree-holder thereupon desires that the tenure or holding be sold with power to avoid all incumbrances, the officer holding the sale shall adjourn the sale and make a fresh proclamation under section 289 of the Code of Civil Procedure,<sup>[1]</sup> announcing that the tenure or holding will be put up to auction and sold with power to avoid all incumbrances upon a future day specified therein, not less than fifteen or more than thirty days from the date of the postponement; and upon that day the tenure or holding shall be put up to auction and sold with power to avoid all incumbrances.

(2) The purchaser at a sale under this section may, in manner provided by section 167, and not otherwise, annul any incumbrance on the tenure or holding.

Sale of occupancy-holding with power to avoid all incumbrances, and effect thereof.

**166.** (1) When an occupancy-holding has been advertised for sale under section 163, it shall be put up to auction and sold with power to avoid all incumbrances.

(2) The purchaser at a sale under this section may, in manner provided by the next following section, and not otherwise, annul any incumbrance on the holding.

Procedure for annulling incumbrances under the foregoing sections.

**167.** (1) A purchaser having power to annul an incumbrance under any of the foregoing sections [or under the Bihar and Orissa Public Demands Recovery Act, 1914]<sup>[2]</sup> and desiring to annul the same, may, within one year from the date of the sale or the date on which he first has notice of the incumbrance, whichever is later, present to the Collector an application in writing, requesting him to serve on the incumbrancer a notice declaring that the incumbrance is annulled.

(2) Every such application must be accompanied by such fee for the service of the notice as the Board of Revenue may fix in this behalf.

[1] Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (5 of 1908), and this reference should now be taken to be made to rule 67 in Order XXI in Sch. I to that Code—see s. 158 thereof.

[2] Inserted by the Bihar and Orissa Public Demands Recovery Act, 1914 (B. and O. Act 4 of 1914), s. 69 and Sch. III (Part I), in Vol. III of this Code.

(Secs 168-169 )

(3) When an application for service of a notice is made to the Collector in manner prescribed by this section, he shall cause the notice to be served in compliance therewith, and the incumbiance shall be deemed to be annulled from the date on which it is so served.

(4) When a tenure or holding is sold in execution of a decree [or a certificate signed under the Bihar and Orissa Public Demands Recovery Act, 1914]<sup>[1]</sup> for arrears due in respect thereof, and there is on the tenure or holding a protected interest of the kind specified in section 160, clause (c), the purchaser may, if he has power under this Chapter [or that Act]<sup>[2]</sup>, to avoid all incumbrances, sue to enhance the rent of the land which is the subject of the protected interest. On proof that the land is held at a rent which was not at the time the lease was granted a fair rent, the Court may enhance the rent to such amount as appears to be fair and equitable.

This sub-section shall not apply to land which has been held for a term exceeding twelve years at a fixed rent equal to the rent of good arable land.

**168.** (1) The Local Government may, from time to time, by notification in the official Gazette, direct that occupancy-holdings or any specified class of occupancy-holdings in any local area put up for sale in execution of [<sup>3</sup>][a decree for an arrear of rent] due on them shall, before being put up with power to avoid all incumbrances, be put up subject to registered and notified incumbrances, and may by like notification rescind any such direction.

Power to direct that occupancy holdings be dealt with under foregoing section as tenures

(2) While any such direction remains in force in respect of any local area, all occupancy-holdings, or, as the case may be, occupancy-holdings of the specified class in that local area, shall, for the purposes of sale under the foregoing sections of this Chapter, be treated in all respects as if they were tenures.

**169.** (1) In disposing of the proceeds of a sale under this Chapter, the following rules, instead of those prescribed by section 295 of the Code of Civil Procedure<sup>[4]</sup>, shall be observed, that is to say —

Rules for disposal of the sale-proceeds

(a) there shall first be paid to the decree-holder the costs incurred by him in bringing the tenure or holding to sale;

[1] Inserted by the Bihar and Orissa Public Demands Recovery Act, 1914 (B. and O. Act 4 of 1914), s. 69 and Sch. III (Part I), in Vol. III of this Code.

[2] These words were inserted by *ibid*

[3] These words in square brackets in s. 168 (1) were substituted for the words "decree for rent", by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 52, in Vol. II of this Code.

[4] Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (5 of 1908), and this reference should now be taken to be made to s. 73 of that Code—see s. 158 thereof.

## (Sec. 170.)

- (b) there shall, in the next place, be paid to the decree-holder the amount due to him under the decree in execution of which the sale was made;
- (c) if there remains a balance after these sums have been paid, there shall be paid to the decree-holder therefrom any rent which may have fallen due to him in respect of the tenure or holding between the institution of the suit and the date of [1][the confirmation of] the sale;
- (d) the balance (if any) remaining after the payment of the rent mentioned in clause (c) shall, upon the expiration of two months from the confirmation of the sale, be paid to the judgment-debtor upon his application:

[2][Provided that, where a tenure or holding has been sold in execution of a decree obtained by one or more co-sharer landlords in a suit framed under section 148A or sub-section (1) of section 158B,—

- (i) payment of the amount due under such decree shall, notwithstanding anything contained in clause (b), be made to the decree-holder and to the other co-sharer landlords in proportion to the amount found to be due to each, and,
- (ii) if there remains a balance, payment of any rent which may have fallen due in respect of the tenure or holding between the institution of the suit and the date of the confirmation of the sale shall, notwithstanding anything contained in clause (c), but subject to the determination, in the manner and with the effect mentioned in sub-section (2), of any dispute as to their respective rights to receive such rent, be made to the said decree-holder and the other co-sharer landlords in proportion to their respective shares in the tenure or holding.]

(2) If the judgment-debtor disputes the decree-holder's right to receive any sum on account of rent under clause (c), the Court shall determine the dispute, and the determination shall have the force of a decree.

Tenure or holding to be released from attachment only on

**170.** (1) Sections 278 to 283 (both inclusive) and 310A<sup>[3]</sup> of the Code of Civil Procedure<sup>[4]</sup> shall not apply to a tenure or holding attached in execution of a decree for arrears due thereon.

[1] These words in square brackets in s. 169 (c) were inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 53 (1), in Vol. III of this Code.

[2] This proviso was added to s. 169 (1), by *ibid.* s. 53 (2).

[3] This reference to s. 310A, in s. 170 (1), was inserted by *ibid.* s. 54.

[4] Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (5 of 1908), and this reference should now be taken to be made to rules 58 to 63 and 89 in Order XXI in Sch. I to that Code—see s. 158 thereof.

(Secs. 171-172.)

(2) When an order for the sale of a tenure or holding in execution of such a decree has been made, the tenure or holding shall not be released from attachment unless, before it is knocked down to the auction-purchaser, the amount of the decree, including the costs decreed, together with the costs incurred in order to the sale, is paid into Court, or the decree-holder makes an application for the release of the tenure or holding on the ground that the decree has been satisfied out of Court.

payment into Court of amount of decree, with costs, or on confession of satisfaction by decree-holder.

(3) The judgment-debtor, or any person having in the tenure or holding any interest voidable on the sale, may pay money into Court under this section.

**171.** (1) When any person having, in a tenure or holding advertised for sale under this Chapter, [or in execution of a certificate for arrears of rent due in respect thereof, signed under the Bihar and Orissa Public Demands Recovery Act, 1914,]<sup>[1]</sup> an interest which would be voidable upon the sale, pays into Court the amount requisite to prevent the sale—

Amount paid into Court to prevent sale to be in certain cases a mortgage-debt on the tenure or holding.

- (a) the amount so paid by him shall be deemed to be a debt bearing interest at twelve *per centum per annum* and secured by a mortgage of the tenure or holding to him;
- (b) his mortgage shall take priority of every other charge on the tenure or holding other than a charge for arrear of rent; and
- (c) he shall be entitled to possession of the tenure or holding as mortgagee of the tenant, and to retain possession of it as such until the debt, with the interest due thereon, has been discharged.

(2) Nothing in this section shall affect any other remedy to which any such person would be entitled.

**172.** [When a tenure or holding is advertised for sale—

- (a) under this Chapter, in execution of a decree against a superior tenant defaulting, or
- (b) in execution of a certificate, signed under the Bihar and Orissa Public Demands Recovery Act, 1914, for arrears of rent due in respect of the tenure or holding from a superior tenant defaulting,]<sup>[2]</sup>

Inferior tenant paying into Court may deduct from rent.

and an inferior tenant, whose interest would be voidable upon the sale, pays money into Court in order to prevent the sale, he may, in

[1] Inserted by the Bihar and Orissa Public Demands Recovery Act, 1914 (B. and O. Act 4 of 1914), s. 69 and Sch. III (Part I), in Vol. III of this Code.

[2] Substituted for the original by *ibid.*

(Secs. 173-174.)

addition to any other remedy provided for him by law, deduct the whole or any portion of the amount so paid from any rent payable by him to his immediate landlord; and that landlord, if he is not the defaulter, may, in like manner deduct the amount so deducted from any rent payable by him to his immediate landlord, and so on until the defaulter is reached.

Decree-holder may bid at sale; judgment-debtor may not.

**173.** (1) Notwithstanding anything contained in section 294 of the Code of Civil Procedure<sup>[1]</sup>, the holder of a decree in execution of which a tenure or holding is sold under this Chapter may, without the permission of the Court, bid for or purchase the tenure or holding. 14 of 1882.

(2) The judgment-debtor shall not bid for or purchase a tenure or holding so sold.

(3) When a judgment-debtor purchases by himself or through another person a tenure or holding so sold, the Court may, if it thinks fit, on the application of the decree-holder or any other person interested in the sale, by order set aside the sale and the costs of the application and order, and any deficiency of price which may happen on the re-sale, and all expenses attending it shall be paid by the judgment-debtor.

Application by judgment debtor to set aside sale.

**174.** (1) Where a tenure or holding is sold for an arrear of rent due thereon, then, at any time within thirty days from the date of sale, the judgment-debtor may apply to have the sale set aside, on his depositing in Court, for payment to the decree-holder, the amount recoverable under the decree with costs, and, for payment to the purchaser, a sum equal to five *per centum* of the purchase-money.

(2) If such deposit is made within the thirty days, the Court shall pass an order setting aside the sale, and the provisions of section 315 of the Code of Civil Procedure<sup>[2]</sup> shall apply in the case of a sale so set aside : 14 of 1882.

Provided that, if a judgment-debtor applies under section 311 of the Code of Civil Procedure<sup>[3]</sup> to set aside the sale of his tenure or holding, he shall not be entitled to make an application under this section; <sup>14 of 1882.</sup> [4][and, if he applies under this section, he shall not be entitled to make

[1] Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (5 of 1908), and this reference should now be taken to be made to rule 72 in Order XXI in Sch. I to that Code—see s. 158 thereof.

[2] This reference should now be taken to be made to rule 93 in Order XXI in Sch. I to the Code of Civil Procedure, 1908 (5 of 1908)—see s. 158 thereof.

[3] This reference should now be taken to be made to rule 90 in Order XXI in Sch. I to the Code of Civil Procedure, 1908 (5 of 1908)—see s. 158 thereof.

[4] These words in square brackets were added to s. 174 (2), proviso, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 55, in Vol. II of this Code.

of 1885.]

*The Bengal Tenancy Act, 1885.*

(Secs. 175-178.)

14 of 1882. an application under section 311 of the Code of Civil Procedure<sup>[1]</sup>.]

14 of 1882. (3) Section 313 of the Code of Civil Procedure<sup>[2]</sup> shall not apply to any sale under this Chapter.

3 of 1877. **175.** Notwithstanding anything contained in Part IV of the Indian Registration Act, 1877,<sup>[3]</sup> an instrument creating an incumbrance upon any tenure or holding which has been executed before the commencement of this Act, and is not required by section 17 of the said Registration Act<sup>[4]</sup> to be registered, shall be accepted for registration under that Act if it is presented for that purpose to the proper officer within one year from the commencement of this Act.

Registration of certain instruments creating incumbrances.

**176.** Every officer who has, whether before or after the passing of this Act, registered an instrument executed by a tenant of a tenure or holding and creating an incumbrance on the tenure or holding, shall, at the request of the tenant or of the person in whose favour the incumbrance is created, and on payment by him of such fee as the Local Government may fix in this behalf, notify the incumbrance to the landlord by causing a copy of the instrument to be served on him in the prescribed manner.

Notification of incumbrances to landlord.

**177.** Nothing contained in this Chapter shall be deemed to enable a person to create an incumbrance which he could not otherwise lawfully create.

Power to create incumbrances not extended.

## CHAPTER XV.

### CONTRACT AND CUSTOM.

**178.** (1) Nothing in any contract between a landlord and a tenant made before or after the passing of this Act—

Restrictions on exclusion of Act by agreement.

(a) shall bar in perpetuity the acquisition of an occupancy-right in land, or

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[1] Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (5 of 1908), and this reference should now be taken to be made to rule 90 in Order XXI in Sch. I to that Code—*see* s. 158 thereof.

[2] This reference should now be taken to be made to rule 91 in Order XXI in Sch. I to the Code of Civil Procedure, 1908 (5 of 1908)—*see* s. 158 thereof.

[3] Act 3 of 1887 has been repealed and re-enacted by the Indian Registration Act, 1908 (16 of 1908), and this reference should now be construed as a reference to Part IV of the latter Act—*see* the General Clauses Act, 1897 (10 of 1897), s. 8, in General Acts, 1887-97, Ed. 1928, p. 354.

[4] This reference should now be construed as a reference to s. 17 of the Indian Registration Act, 1908 (16 of 1908)—*see* *ibid.*



(Sec. 178.)

- (b) shall take away an occupancy-right in existence at the date of the contract, or
- (c) shall entitle a landlord to eject a tenant otherwise than in accordance with the provisions of this Act, or
- (d) shall take away or limit the right of a tenant, as provided by this Act, to make improvements and claim compensation for them.

(2) Nothing in any contract made between a landlord and a tenant since the 15th day of July, 1880, and before the passing of this Act, shall prevent a *raiyat* from acquiring, in accordance with this Act an occupancy-right in land.

(3) Nothing in any contract made between a landlord and a tenant after the passing of this Act shall—

- (a) prevent a *raiyat* from acquiring, in accordance with this Act, an occupancy-right in land;
- (b) take away or limit the right of an occupancy-*raiyat* to use land as provided by section 23;
- (c) take away the right of a *raiyat* to surrender his holding in accordance with section 86;
- (d) take away the right of a *raiyat* to transfer or bequeath his holding in accordance with local usage;
- (e) take away the right of an occupancy-*raiyat* to sub-let subject to, and in accordance with, the provisions of this Act;
- (f) take away the right of a *raiyat* to apply for a reduction of rent under section 38 or section 52;
- (g) take away the right of a landlord or a tenant to apply for a commutation of rent under section 40; or
- (h) affect the provisions of section 67 relating to interest payable on arrears of rent:

Provided as follows :—

- (i) nothing in this section shall affect the terms or conditions of a lease granted *bonâ fide* for the reclamation of waste land, except that, where, on or after the expiration of the term created by the lease, the lessee would, under Chapter V, be entitled to an occupancy-right in the land comprised in the lease, nothing in the lease shall prevent him from acquiring that right;



(Secs. 179-180.)

(ii) when a landlord has reclaimed waste-land by his own servants or hired labourers, and subsequently lets the same or a part thereof to a *raiyat*, nothing in this Act shall affect the terms of any contract whereby a *raiyat* is prevented from acquiring an occupancy-right in the land or part during a period of thirty years from the date on which the land or part is first let to a *raiyat*;

(iii) nothing in this section shall affect the terms or conditions of any contract for the temporary cultivation of [1][horticultural or] orchard land with agricultural crops.

[2][*Explanation*—The expression “horticultural land,” as used in proviso (iii), means garden land, in the occupation of a proprietor or permanent tenure-holder, which is used *bond fide* for the cultivation of flowers or vegetables, or both, grown for the personal use of such proprietor or permanent tenure-holder and his family, and not for profit or sale.]

179. Nothing in this Act shall be deemed to prevent a proprietor or a holder of a permanent tenure in a permanently-settled area from granting a permanent *mukarrari* lease on any terms agreed on between him and his tenant. Permanent *mukarrari* leases.

180. (1) Notwithstanding anything in this Act, a *raiyat*—

(a) who, in any part of the country where the custom of *utbandi* prevails, holds land ordinarily let under that custom and for the time being let under that custom, or *Utbandi, chur and diara land.*

(b) who holds land of the kind known as *chur* or *diara*, shall not acquire a right of occupancy—

in case (a), in land ordinarily held under the custom of *utbandi* and for the time being held under that custom, or

in case (b), in the *chur* or *diara* land,

until he has held the land in question for twelve continuous years; and, until he acquires a right of occupancy in the land, he shall be liable to pay such rent for his holding as may be agreed on between him and his landlord.

(2) Chapter VI shall not apply to *raiya*t holding land under the custom of *utbandi* in respect of land held by them under that custom.

[1] These words in square brackets in proviso (iii) were inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s 56 (1), in Vol. II of this Code.

[2] This *Explanation* was added to proviso (iii) by *ibid*, s 56 (2).

(Secs. 181-184.)

(3) The Collector may, on the application of either the landlord or the tenant or on a reference from the Civil Court, declare that any land has ceased to be *chur* or *diara* land within the meaning of this section, and thereupon all the provisions of this Act shall apply to the land.

Saving as to  
service-  
tenures.

**181.** Nothing in this Act shall affect any incident of a *ghatwali*[<sup>1</sup>] or other service-tenure, or, in particular, shall confer a right to transfer or bequeath a service-tenure which, before the passing of this Act, was not capable of being transferred or bequeathed.

Homesteads.

**182.** When a *raiyat* holds his homestead otherwise than as part of his holding as a *raiyat*, the incidents of his tenancy of the homestead shall be regulated by local custom or usage, and, subject to local custom or usage, by the provisions of this Act applicable to land held by a *raiyat*.

Saving of  
custom.

**183.** Nothing in this Act shall affect any custom, usage or customary right not inconsistent with, or not expressly or by necessary implication modified or abolished by, its provisions.

#### Illustrations.

(1) A usage under which a *raiyat* is entitled to sell his holding without the consent of his landlord is not inconsistent with, and is not expressly or by necessary implication modified or abolished by, the provisions of this Act. That usage, accordingly, wherever it may exist, will not be affected by this Act.

(2) The custom or usage that an under-*raiyat* should, under certain circumstances, acquire a right of occupancy is not inconsistent with, and is not expressly or by necessary implication modified or abolished by, the provisions of this Act. That custom or usage, accordingly, wherever it exists, will not be affected by this Act.

## CHAPTER XVI.

### LIMITATION.

Limitation  
in suits,  
appeals and  
applications  
in Schedule  
III.

**184.** (1) The suits, appeals and applications specified in Schedule III annexed to this Act shall be instituted and made within the time prescribed in that Schedule for them, respectively; and every such suit or appeal instituted, and application made, after the period of limitation so prescribed, shall be dismissed although limitation has not been pleaded.

[1] As to *ghatwali* tenures, see the Bengal Ghatwali Lands Regulation, 1814 (29 of 1814), ante, p. 123, and the Bengal Ghatwali Lands Act, 1859 (5 of 1859), ante, p. 345.

(Secs. 185-186.)

(2) Nothing in this section shall revive the right to institute any suit or appeal or make any application which would have been barred by limitation if it had been instituted or made immediately before the commencement of this Act.

15 of 1877

**185.** (1) Sections 7, 8 and 9 of the Indian Limitation Act, 1877<sup>[1]</sup>, shall not apply to the suits and applications mentioned in the last foregoing section. Portions of the Indian Limitation Act not applicable to such suits, etc.

15 of 1877.

(2) Subject to the provisions of this Chapter, the provisions of the Indian Limitation Act, 1877<sup>[2]</sup>, shall apply to all suits, appeals and applications mentioned in the last foregoing section.

## CHAPTER XVII.

## SUPPLEMENTAL.

*Penalties.*

**186.** (1) If any person, otherwise than in accordance with this Act or some other enactment for the time being in force,— Penalties for illegal interference with produce.

(a) distrains or attempts to distrain the produce of a tenant's holding, or,

(b) resists a distraint duly made under this Act, or forcibly or clandestinely removes any property duly distrained under this Act, or,

(c) except with the authority or consent of the tenant, prevents or attempts to prevent the reaping, gathering, storing, removing or otherwise dealing with any produce of a holding,

15 of 1860.

he shall be deemed to have committed criminal trespass within the meaning of the Indian Penal Code.

45 of 1860

(2) Any person who abets within the meaning of the Indian Penal Code the doing of any act mentioned in sub-section (1), shall be

[1] Act 15 of 1887 has been repealed and re-enacted by the Indian Limitation Act, 1908 (9 of 1908), and this reference should now be construed as a reference to ss. 6, 7, 8 and 9 of the latter Act—see the General Clauses Act, 1897 (10 of 1897), s. 8, in General Acts, 1887-97, Ed. 1928, p. 354.

[2] This reference should now be construed as a reference to the Indian Limitation Act, 1908 (9 of 1908)—see *ibid.*

(Secs. 186A-188.)

deemed to have abetted the commission of criminal trespass within the meaning of that Code.

[1] *Damages for denial of landlord's title.*

Damages for denial of landlord's title.

[1] **186A.** (1) When, in any suit between a landlord and tenant as such, the tenant renounces his character as tenant of the landlord by setting up without reasonable or probable cause title in a third person or himself, the Court may pass a decree in favour of the landlord for such amount of damages, not exceeding ten times the amount of the annual rent payable by the tenant, as it may consider to be just.

(2) The amount of damages decreed under sub-section (1), together with any interest accruing due thereon, shall, subject to the landlord's charge for rent, be a first charge on the tenure or holding of the tenant; and the landlord may execute such decree for damages and interest, either as a decree for a sum of money, or, subject to the provisions of section 158B, in any of the modes in which a decree for rent may be executed.

*Agents and representatives of landlords.*

Power for landlord to act through agent.

**187.** (1) Any appearance, application or act, in, before or to any Court or authority, required or authorized by this Act to be made or done by a landlord, may, unless the Court or authority otherwise directs, be made or done also by an agent empowered in this behalf by a written authority under the hand of the landlord.

(2) Every notice required by this Act to be served on, or given to, a landlord shall, if served on, or given to, an agent empowered as aforesaid to accept service of or receive the same on behalf of the landlord, be as effectual for the purposes of this Act as if it had been served on, or given to, the landlord in person.

(3) Every document required by this Act to be signed or certified by a landlord, except an instrument appointing or authorizing an agent, may be signed or certified by an agent of the landlord authorized in writing in that behalf.

Joint-landlords to act collectively or by common agent.

**188.** Where two or more persons are joint-landlords, anything which the landlord is under this Act required or authorized to do must be done either by both or all those persons acting together, or by an agent authorized to act on behalf of both or all of them.

[2] This heading and s. 186A were inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 57, in Vol. II of this Code.

(Secs. 188A-189.)

[<sup>1</sup>]188A. Notwithstanding anything contained in this Act, every suit between landlord and tenant as such instituted by—

Procedure  
in suits by  
Joint-land-  
lords.

- (a) a sole landlord,
- (b) the entire body of landlords, or
- (c) one or more co-sharer landlords,

shall be subject to the provisions of sections 143 to 153 (both inclusive);

and to every decree passed in a suit framed under sub-section (1) or sub-section (2) of section 158B, the provisions of Chapter XIV<sup>[2]</sup> shall, so far as may be practicable, be applicable.

### Rules under Act

189. The Local Government may, from time to time, by notification in the official Gazette, make rules,<sup>[3]</sup> consistent with this Act,—

Power to  
make rules  
regarding  
procedure,  
powers of  
officers and  
services of  
notices.

- (1) to regulate the procedure to be followed by Revenue-officers in the discharge of any duty imposed upon them by or under this Act, and may by such rules confer upon any such officer—

- (a) any power exercised by a Civil Court in the trial of suits;
- (b) power to enter upon any land, and to survey, demarcate and make a map of the same, and any power exercisable by any officer under the Bengal Survey Act, 1875;<sup>[4]</sup> and
- (c) power to cut and thresh the crops on any land and weigh the produce, with a view to estimating the capabilities of the soil; and

<sup>[5]</sup>[(2) to prescribe the forms to be used, and the mode of service of notices issued, under this Act, where no form or mode is prescribed by this or any other Act;

<sup>[6]</sup>[(3) to prescribe the manner in which landlord's fees shall be transmitted to the landlord; and

[1] This section was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 58, in Vol. II of this Code.

[2] S. 158B forms part of Chapter XIV—see p. 486, *ante*

[3] For rules made under s. 189, see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I. Part IV.

[4] Printed in Vol. II of this Code.

[5] These sub-sections (2) to (4) were substituted for the original sub-section (2), by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 59, in Vol. II of this Code. The original sub-section ran thus:—

“(2) to prescribe the mode of service of notices under this Act, where no mode is prescribed by this or any other Act”.

[6] See footnote [5] above.

(Secs. 189A-190.)

[<sup>1</sup>](4) to prescribe the authority by whom the fees deposited under sections 12, 13, 15, 17 and 18, clause (a), may be declared to be forfeited, and the mode in which such fees, when so forfeited, shall be dealt with.]

Transfer of Proceedings.

[<sup>2</sup>]**189A.** (1) It shall be competent to the Board of Revenue to transfer, and with the previous sanction of the Local Government to make rules authorizing revenue-officers to transfer, any suit or other proceeding, original or otherwise, under any provision of this Act, from the file of any subordinate officer to the file of any other subordinate officer who is duly authorized to entertain or decide suits or other proceedings under such provision.

Validation of certain transfers made prior to the commencement of this Act.

(2) No decision or order made by any revenue-officer under any provision of this Act shall if such officer was duly authorized to act under such provision, be deemed to be invalid by reason only that the suit or other proceeding in which it was made came to his file prior to the commencement of the Bihar Tenancy (Amending and Validating) Act, 1920, without a due order of transfer.]

Procedure for making, publication and confirmation of rules.

**190.** (1) Every authority having power to make rules under any section of this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(2) The publication shall be made, in the case of rules made by the Local Government or High Court, in such manner as may, in its opinion, be sufficient for giving information to persons interested, and, in the case of rules made by any other authority, in the prescribed manner :

Provided that every such draft shall be published in the official Gazette.

(3) There shall be published with the draft a notice specifying a date, not earlier than the expiration of one month after the date of publication, at or after which the draft will be taken into consideration.

(4) The authority shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(5) The publication in the official Gazette of a rule purporting to be made under this Act shall be conclusive evidence that it has been duly made.

(6) All rules made under this Act may, from time to time, subject to the sanction (if any) required for making them, be amended, added to or cancelled by the authority having power to make the same.

[1] See footnote [5] on p. 501, *ante*.

[2] This section was inserted by the Bihar Tenancy (Amending and Validating) Act, 1920 (B. and O. Act 9 of 1920), s. 2, in Vol. III of this Code.

(Secs. 191-195.)

*Provisions as to temporarily-settled districts.*

**191.** Where the area comprised in a tenure is situate in an estate which has never been permanently settled, nothing in this Act shall prevent the enhancement of the rent upon the expiration of a temporary settlement of the revenue, unless the right to hold beyond the term of the settlement at a particular rate of rent has been expressly recognized in settlement-proceedings by a Revenue authority empowered by the Government to make definitively or confirm settlements.

Saving as to land held in a district not permanently settled.

**192.** When a landlord grants a lease or makes any other contract, purporting to entitle the tenant of land not included in an area permanently settled to hold that land free of rent or at a particular rent, and while the lease or contract is in force—

Power to alter rent in case of new assessment of revenue.

(a) land-revenue is for the first time made payable in respect of the land, or

(b) land-revenue having been previously payable in respect of it, a fresh settlement of land-revenue is made,

a Revenue-officer may, notwithstanding anything in the contract between the parties, by order, on the application of the landlord or of the tenant,<sup>[1]</sup> [or of his own motion shall,] fix a fair and equitable rent for the land in accordance with the provisions of this Act.

*Rights of pasturage, etc.*

**193.** The provisions of this Act applicable to suits for the recovery of arrears of rent shall, as far as may be, apply to suits for the recovery of anything payable or deliverable in respect of any rights of pasturage, forest-rights, rights over fisheries and the like.

Rights of pasturage, forest-rights, etc.

*Saving for conditions binding on landlords.*

**194.** Where a proprietor or permanent tenure-holder holds his estate or tenure subject to the observance of any specified rule or condition, nothing in this Act shall entitle any person occupying land within the estate or tenure to do any act which involves a violation of that rule or condition.

Tenant not enabled by Act to violate conditions binding on landlord.

*Savings for special enactments.*

**195.** Nothing in this Act shall affect—

(a) the powers and duties of Settlement-officers as defined by any law not expressly repealed by this Act;

(b) any enactment regulating the procedure for the realization of rents in estates belonging to the Government, or under the management of the Court of Wards or of the Revenue authorities;

Savings for special enactments.

[1] These words in square brackets in section 192 were inserted by the Bengal Tenancy Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 60, in Vol. II of this Code.



## (Sec. 196. Schedule I.)

- (c) any enactment relating to the avoidance of tenancies and incumbrances by a sale for arrears of the Government revenue;
- (d) any enactment relating to the partition of revenue-paying estates;
- (e) any enactment relating to *patni* tenures, in so far as it relates to those tenures; or
- (f) any other special or local law not repealed either expressly or by necessary implication by this Act.

*Construction of Act.*

Act to be read subject to Acts hereafter passed by Lieutenant-Governor of Bengal in Council.

**196.** This Act shall be read subject to every Act passed after its commencement by the Lieutenant-Governor of Bengal in Council.<sup>[1]</sup>

## SCHEDULE I.

(See section 2.)

## REPEAL OF ENACTMENTS.

*Regulations of the Bengal Code.*

Number and year.	SUBJECT OF REGULATIONS.	Extent of repeal.
[2] 8 of 1793 ..	A Regulation for re-enacting with modifications and amendments the rules for the Decennial Settlement of the public revenue payable from the lands of the <i>zamindars</i> , independent <i>talukdars</i> and other actual proprietors of land in Bengal, Bihar and Orissa, passed for those Provinces, respectively, on the 18th September, 1789, the 25th November, 1789, and the 10th February, 1790, and subsequent dates.	Sections 51, 52, 53, 54, 55, 64 and 65.
[3] 12 of 1805	A Regulation for the settlement and collection of the public revenue in the <i>zila</i> of Cuttack, including the <i>parganas</i> of Pataspur, Kamardachor, and Bhograï at present included in the <i>zila</i> of Midnapore.	Section 7
[4] 5 of 1812	A Regulation for amending some of the rules at present in force for the collection of the land-revenue.	Sections 2, 3, 4, 26 and 27.

[1] See now the Government of India Act, 1919 (9 and 10 Geo. v. ch. 101), s. 80A.

[2] The Bengal Decennial Settlement Regulation, 1793. It is printed *ante*, p. 28.

[3] The Cuttack Land-revenue Regulation, 1805. It is printed *ante*, p. 88. Section 7 has since been repealed everywhere by the Amending Act, 1903 (1 of 1903).

[4] The Bengal Land-revenue Sales Regulation, 1812. It is printed *ante*, p. 114.

## Schedule I.

Number and year.	SUBJECT OF REGULATIONS.	Extent of repeal.
[1] 18 of 1812	.. A Regulation for explaining section 2, Regulation 5, 1812, and rescinding sections 3 and 4, Regulation 44, 1793, and sections 3 and 4, Regulation 50, 1795, and enacting other rules in lieu thereof.	The preamble and sections 2 and 3.
[2] 11 of 1825	.. A Regulation for declaring the rules to be observed in determining claims to lands gained by alluvion or by dereliction of a river or the sea	In clause 1 of section 4, from and including the words "Nor if annexed to a subordinate tenure" to the end of the clause.

## Acts of the Bengal Council.

Number and year.	SUBJECT OF ACT.	Extent of repeal.
[3] 6 of 1862	.. An Act to amend Act 10 of 1859 (to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal)	The whole Act.
[4] 4 of 1867	An Act to explain and amend Act 6 of 1862, passed by the Lieutenant Governor of Bengal in Council, and to give validity to certain judgments	The whole Act.
[5] 8 of 1869	An Act to amend the Procedure in suits between landlords and tenants.	The whole Act.
[6] 8 of 1879	An Act to define and limit the powers of Settlement-officers.	The whole Act

## Act of the Governor General in Council.

[7] 10 of 1859	.. An Act to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal	The whole Act
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- [1] The Bengal Land and Land-revenue Regulation, 1812 It is printed *ante*, p. 15  
 [2] The Bengal Alluvion and Diluvion Regulation, 1825 It is printed *ante*, p. 263.  
 [3] The Bengal Rent Act, 1862  
 [4] The Bengal Rent (Appeals) Act, 1867.  
 [5] The Landlord and Tenant Procedure Act, 1869.  
 [6] The Bengal Rent Settlement Act, 1879.  
 [7] The Bengal Rent Act, 1859.

(Schedule II).

## SCHEDULE II.

## FORMS OF RECEIPT AND ACCOUNT.

(See sections 56 and 57.)

## FORM OF RECEIPT.

PARTICULARS OF	OLD	TENANT PORTION
Serial number Receipt		
Estate Village		Thana
Tenant's name		Son of
Particulars of the holding—		
Nukda Bazar		Rent Rs.
Bhaol Bazar		Maun or Rs.
		Jalkar, Rs.
		Bankar, Rs.
		Phalkar, Rs.
Gov	Cesses	Road Cess, Rs.
		Public Works Cess, Rs.
Signature	Landlo	Age

## FORM OF RECEIPT

PARTICULARS OF THE HOLDING	LANDLORD
1. Serial number of Receipt	
2. Estate ; Village	Thana
3. Tenant's name	Son of
4. Particulars of the holding—	
Nukda, Bazar	Rent Rs.
Bhaol, Bazar	Maun or Rs.
	Jalkar, Rs.
	Bankar, Rs.
	Phalkar, Rs.
	Road Cess, Rs.
	Public Works Cess, Rs.
Signature of the Landlord	Signature of the Tenant

in which If he does not make any such declaration, the payment may be credited to the account of such year as the tenant may declare the year or the year and months in which the payment shall be credited according to the account of such year as the landlord thinks fit.

(Schedule II.)

**FORM OF ACCOUNT**

1. Year	2. Tenant's name	3 Particulars of holding—(area, rent etc)	Bighas Rate	Nukda
			Government Cesses	
			Bighas	R.
			Bhaols	
			Mauuds	R.
			.. .. .	
			.. .. .	
			.. .. .	
			Mauuds	R.
4. Demand of t			.. .. .	
5. Balance of fi		years ( <i>Bakaya</i> )	.. .. .	
6. Total deman				R.
7. Paid each on		mand		
		and		
8. Paid in kind				
9. Balance outs n		ing a end o		R.
10. Signature		by Lendlord or		Agr

\*\*\*\*\*

**TO: OF ACCOUNT:**

[illegible]

(Schedule II.)

### DETAILS OF PAYMENTS (LANDLORD'S PORTION).

[illegible]

### DETAILS OF PAYMENTS (TENANT'S PORTION)

[illegible]

## (Schedule III.)

[<sup>1</sup>]SCHEDULE III.

## LIMITATION

(See section 184.)

## PART I.—Suits.

Description of suits.	Period of limitation.	Time from which period begins to run.
1. To eject any tenure-holder or <i>rayat</i> on account of any breach of a condition in respect of which there is a contract expressly providing that ejectment shall be the penalty of such breach.	One year ..	The date of the breach.
[2] 1 (a) To eject a non-occupancy- <i>rayat</i> on the ground of the expiration of the term of his lease.	Six months.	The expiration of the term].
2. For the recovery of an arrear of rent [3] [in a suit brought by— (*) a sole landlord, (**) the entire body of landlords, or (***) one or more co-sharer landlords]—		
(a) when the arrear fell due before a deposit was made under section 61 on account of the rent of the same holding ;	Six months ..	The date of the service of notice of the deposit.
(b) in other cases ..	Three years..	[4] [The last day of the agricultural year in which the arrear fell due].
3. To recover possession of land claimed by the plaintiff as [5] [a <i>rayat</i> or an under- <i>rayat</i> ].	Two years ..	The date of dispossession.

[1] The word "rent", in Sch. III, includes also money recoverable under any enactment for the time being in force as if it was rent—see s. 3 (5), *ante*, p. 404.

[2] Article 1 (a) was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 61 (1), in Vol. II of this Code.

[3] The words in square brackets in Article 2 were inserted by *ibid*, s. 61 (2)(a)

[4] The entry in square brackets was substituted for the original entry by *ibid*, s. 61 (2)(b). The original entry ran thus.—

"The last day of the Bengali year in which the arrear fell due, where that year prevails, and the last day of the month of *Jeth* of the *Amk* or *Fush* year in which the arrear fell due, where either of those years prevails "

[5] The words in square brackets in Article 3 were substituted for the words "an occupancy-*rayat*," by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 61 (3), in Vol. II of this Code.

## (Schedule III.)

PART III.—*Appeals.*

Description of appeal.	Period of limitation.	Time from which period begins to run.
4. From any decree or order under this Act, to the Court of a District Judge or Special Judge.	Thirty days	The date of the decree or order appealed against.
5. From any order of a Collector under this Act, to the Commissioner.	Thirty days	The date of the order appealed against.

PART III.—*Applications.*

Description of application.	Period of limitation.	Time from which period begins to run.
6. For the execution of a decree or order made [1] [in a suit between landlord and tenant to whom the provisions of this Act are applicable,] and not being a decree for a sum of money exceeding Rs. 500, exclusive of any interest which may have accrued after decree upon the sum decreed, but inclusive of the costs of executing such decree; except where the judgment-debtor has by fraud or force prevented the execution of the decree, in which case the period of limitation shall be governed by the provisions of the Indian Limitation Act, 1877.[2]	Three years	(1) The date of the decree or order; or (2) where there has been an appeal, the date of the final decree or order of the Appellate Court; or (3) where there has been a review of judgment, the date of the decision passed on the review.

15 of 1877.

[1] The words in square brackets in Article 6 were substituted for the words "under this Act, or any Act repealed by this Act", by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 61 (4), in Vol. II of this Code.

[2] Act 15 of 1877 has been repealed and re-enacted by the Indian Limitation Act, 1908 (9 of 1908), and this reference should now be construed as a reference to the latter Act—see the General Clauses Act, 1897 (10 of 1897), s. 8, in General Acts, 1887-97, Ed. 1928, p. 354

ACT 8 OF 1886.

[THE BENGAL TENANCY (AMENDMENT) ACT, 1886.][<sup>1</sup>]

(8th March, 1886.)

**An Act to amend sections 12 and 13 of the Bengal Tenancy Act, 1885.**<sup>[2]</sup> 8 of 1885.

Whereas it is expedient to amend sections 12 and 13 of the Bengal Tenancy Act, 1885,<sup>[2]</sup> in manner hereinafter appearing; It is hereby enacted as follows:—

1. In section 12, sub-section (2), before the word “ mortgage ” the word “ usufructuary ” shall be inserted

2.(1) In section 13, sub-section (1), before the words “ the Court ” the words “ or when a mortgage of a permanent tenure, other than an usufructuary mortgage thereof, is foreclosed,” shall be inserted.

(2) In the same sub-section, before the word “ require ” the words “ or making a decree or order absolute for the foreclosure ” shall be inserted.

(3) In the same sub-section, before the words “ to pay into Court ” the words “ or mortgagee ” shall be inserted.

(4) In the same sub-section, before the words “ on the landlord ” the words “ or final foreclosure ” shall be inserted.

(5) In section 13, sub-section (2), before the words “ the Court ” the words “ or the decree or order absolute for the foreclosure has been made,” shall be inserted.

(6) In the same sub-section, before the words “ in the prescribed form,” the words “ or final foreclosure ” shall be inserted.

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[1] SHORT TITLE.—This short title was given by the Amending Act, 1903 (1 of 1903), Sch. I—see *post*, p. 625.

LEGISLATIVE PAPERS.—For Proceedings in Council, see *Gazette of India*, Supplement, 1886, pp. 293 and 301.

LOCAL EXTENT.—Since this Act merely amends the Bengal Tenancy Act, 1885 (8 of 1885), its local extent must be taken to be the same as that of the latter Act, as to which see the “ Local Extent ” foot-note on page 402, *ante*.

[2] Printed *ante*, p. 402.



ACT 12 OF 1887.

(THE BENGAL, AGRA AND ASSAM CIVIL COURTS ACT, 1887.)

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ACT 12 OF 1887.

[THE BENGAL, AGRA AND ASSAM CIVIL COURTS ACT, 1887.][<sup>1</sup>]

(11th March, 1887.)

**An Act to consolidate and amend the law relating to Civil Courts in Bengal, [the North-Western Provinces<sup>2</sup>] and Assam.]**

Whereas it is expedient to consolidate and amend the law relating to Civil Courts in Bengal, [the North-Western Provinces<sup>2</sup>] and Assam]; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Title, extent  
and com-  
mencement.

1. (1) This Act may be called the Bengal, [Agra] [<sup>3</sup>] and Assam Civil Courts Act, 1887.

[1] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Gazette of India, 1881, Part V, p. 1455; for Preliminary Report of Select Committee, see *ibid.*, 1886, Part V, p. 957; and for Proceedings in Council, see *ibid.*, 1881, Supplement, pp. 1132, 1169, 1414 and 1423; *ibid.*, 1886, Supplement, p. 1458; *ibid.*, 1887, part VI, pp. 31 and 33.

LOCAL EXTENT.—This Act extends to the whole of the former Province of Bengal (among other territories), with the exception of the territories not subject to the ordinary civil jurisdiction of the High Court—see s. 1 (2), *post*, p. 515.

The Act has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the following Scheduled Districts, namely :—

the districts of Hazaribagh, Ranchi, Palamau, and Manbhum, and Parganas Dhalbhum, the Chaibassa Municipality and the Porahat-Estate in the district of Singhbhum in the Chota Nagpur Division, see Vol. IV, Part III.

The application of the Act is barred in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 768.

It is in force in the Sonthal Parganas for certain purposes, see the Sonthal Parganas Justice Regulation, 1893 (5 of 1893), ss. 5 to 11, *post*, pp. 741, 742.

As to Small Cause Courts, see the Provincial Small Cause Courts Act, 1887 (9 of 1887 in General Acts, 1887-97, Ed. 1928, p. 9.

As to Civil Court *Amins*, see the Bengal Civil Court *Amins* Act, 1899 (Ben. Act 2 of 1899), in Vol. II of this Code.

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As to non-liability of the Government for errors or irregularities in proceedings of Courts and non-liability of Government officers for things done in conformity with decrees, etc., see the Bengal Government Indemnity Regulation, 1822 (11 of 1822), s. 38, *ante*, p. 238.

[2] The name of these Provinces has since been changed—see the United Provinces (Designation) Act, 1902 (7 of 1902), s. 2, in General Acts, 1898-1909, Ed. 1928, p. 222.

[3] The word "Agra" in s. 1 (1) was substituted for the words "North-Western Provinces" by the Bengal, Agra and Assam Civil Courts (Amendment) Act, 1911 (16 of 1911), s. 2, *post*, p. 643.

(Secs. 2-4.)

(2) It extends to the territories for the time being respectively administered by the Lieutenant-Governor of Bengal,<sup>[1]</sup> [*the Lieutenant-Governor of the North-Western Provinces*<sup>[2]</sup> and *the Chief Commissioner of Assam,*] except such portions of those territories as for the time being are not subject to the ordinary civil jurisdiction of the High Courts, \* \* \*<sup>[3]</sup> and

(3) It shall come into force on the first day of July, 1887.

2. (1) (*Repeal of Acts 6 of 1871 and 19 of 1877.*) *Rep. by the Amending Act, 1891 (12 of 1891).*

(2) \* \*<sup>[4]</sup> all Courts constituted, appointments, nominations, Saving. rules and orders made, jurisdiction and powers conferred and lists published under the Bengal Civil Courts Act, 1871,<sup>[5]</sup> or any enactment thereby repealed, or purporting expressly or impliedly to have been so constituted, made, conferred and published shall be deemed to have been respectively constituted, made, conferred and published under this Act; and

(3) Any enactment or document referring to the Bengal Civil Courts Act, 1871,<sup>[5]</sup> or to any enactment thereby repealed, shall be construed to refer to this Act or to the corresponding portion thereof.

## CHAPTER II.

### CONSTITUTION OF CIVIL COURTS.

3. There shall be the following classes of Civil Courts under this Act, namely :— Classes of  
Courts.

- (1) the Court of the District Judge;
- (2) the Court of the Additional Judge;
- (3) the Court of the Subordinate Judge; and
- (4) the Court of the *Munsif*.

4. <sup>[6]</sup> The Local Government may alter the number of District Judges, Subordinate Judges and *Munsifs* now fixed. Number of  
District  
Judges and  
Subordinate  
Judges and  
*Munsifs*.

[1] This includes the present province of Bihar and Orissa except the district of Sambalpur.

[2] The name of these Provinces has since been changed—see the United Provinces (Designation) Act, 1902 (7 of 1902), s. 2, in General Acts, 1899-1909, Ed. 1928, p. 222.

[3] The words “and except the Jhansi Division,” in s. 1 (2), which were repealed by the North-Western Provinces and Oudh Act, 1890 (20 of 1890), s. 9 (1), are omitted.

[4] The word ‘But,’ in s. 2, sub-section (2), which was repealed by the Amending Act, 1891 (12 of 1891), is omitted.

[5] Act 6 of 1871 was repealed by s. 2 (1) of the present Act.

[6] Substituted by the Devolution Act, 1920 (28 of 1920), s. 2 and First Schedule, post, p. 672.

(Secs. 5-8.)

5. (Number of Munsifs.) Rep. by the Decentralization Act, 1914 (4 of 1914), section 2, Schedule, Part I.

Vacancies  
among  
District or  
Subordinate  
Judges.

6. (1) Whenever the office of District Judge or Subordinate Judge is vacant by reason of the death, resignation or removal of the Judge or other cause, or whenever<sup>[1]</sup> [an increase in the number of District or Subordinate Judges has been made under the provisions of section 4], the Local Government may fill up the vacancy or appoint the Additional District Judges or Subordinate Judges, as the case may be.

(2) Nothing in this section shall be construed to prevent a Local Government from appointing a District Judge or Subordinate Judge to discharge for such period as it thinks fit in addition to the functions devolving on him as such District Judge or Subordinate Judge, all or any of the functions of another District Judge or Subordinate Judge, as the case may be.

Vacancies  
among  
Munsifs.

7. (1) Whenever the office of *Munsif* is vacant, or whenever the Local Government increases the number of *Munsifs*, the High Court shall nominate such person as it thinks fit to be a *Munsif*, and the Local Government shall appoint him accordingly.

(2) The Local Government may, after consultation with the High Court and <sup>[1]</sup> [subject to the control] of the Governor General in Council, make rules<sup>[2]</sup> as to the qualifications of persons to be appointed to the office of *Munsif*.

(3) When rules have been made under sub-section (2), a person shall not be nominated under sub-section (1) unless he possesses the qualifications required by the rules.

Additional  
Judges.

8. (1) When the business pending before any District Judge requires the aid of Additional Judges for its speedy disposal, the Local Government may, upon the recommendation of the High Court \* \* \* \* \*,<sup>[3]</sup> appoint such Additional Judges as may be requisite.

(2) Additional Judges so appointed shall discharge any of the functions of a District Judge which the District Judge may assign to them, and, in the discharge of those functions, they shall exercise the same powers as the District Judge.

[1] Substituted for the original by the Decentralization Act, 1914 (4 of 1914), s. 2, Sch., Part I, *pos*, p. 653.

[2] For rules made under s. 7 (2), see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

[3] The words "and with the previous sanction of the Governor General in Council" in s. 8, which were repealed by the Bengal, Agra and Assam Civil Courts (Amendment) Act, 1911 (13 of 1911), s. 3, are omitted.

(Secs. 9-12.)

9. Subject to the superintendence of the High Court, the District Judge shall have administrative control over all the Civil Courts under this Act within the local limits of his jurisdiction. Administrative control of Courts.

10. (1) In the event of the death, resignation or removal of the District Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the place at which his Court is held, the Additional Judge, or, if an Additional Judge is not present at that place, the senior Subordinate Judge present thereat, shall, without relinquishing his ordinary duties, assume charge of the office of the District Judge, and shall continue in charge thereof until the office is resumed by the District Judge or assumed by an officer appointed thereto. Temporary charge of District Courts.

(2) While in charge of the office of the District Judge, the Additional Judge or Subordinate Judge, as the case may be, may, subject to any rules which the High Court may make in this behalf, exercise any of the powers of the District Judge.

11. (1) In the event of the death, resignation or removal of a Subordinate Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the place at which his Court is held, the District Judge may transfer all or any of the proceedings pending in the Court of the Subordinate Judge either to his own Court or to any Court under his administrative control competent to dispose of them. Transfer of proceedings on vacation of office of Subordinate Judge.

(2) Proceedings transferred under sub-section (1) shall be disposed of as if they had been instituted in the Court to which they are so transferred :

(3) Provided that the District Judge may re-transfer to the Court of the Subordinate Judge or his successor any proceedings transferred under sub-section (1) to his own or any other Court.

(4) For the purposes of proceedings which are not pending in the Court of the Subordinate Judge on the occurrence of an event referred to in sub-section (1), and with respect to which that Court has exclusive jurisdiction, the District Judge may exercise all or any of the jurisdiction of that Court.

12. (1) A District Judge, on the occurrence within the local limits of his jurisdiction of any vacancy in the office of *Munsif*, may appoint such person as he thinks fit to act in the office until that person is relieved by a *Munsif* appointed under section 7 or his appointment is cancelled by the District Judge. Temporary charge of *Munsif*.

(Secs. 13-16.)

(2) The District Judge shall forthwith report to the High Court the occurrence of every such vacancy and the making and cancelling of every such appointment.

**13.** (1) The Local Government may, by notification<sup>[1]</sup> in the official Gazette, fix and alter the local limits of the jurisdiction of any Civil Court under this Act.

(2) If the same local jurisdiction is assigned to two or more Subordinate Judges or to two or more *Munsifs*, the District Judge may assign to each of them such civil business cognizable by the Subordinate Judge or *Munsif*, as the case may be, as, subject to any general or special orders of the High Court, he thinks fit.

(3) When civil business arising in any local area is assigned by the District Judge under sub-section (2) to one of two or more Subordinate Judges or to one of two or more *Munsifs*, a decree or order passed by the Subordinate Judge or *Munsif* shall not be invalid by reason only of the case in which it was made having arisen wholly or in part in a place beyond the local area if that place is within the local limits fixed by the Local Government under sub-section (1).

(4) A Judge of a Court of Small Causes appointed to be also a Subordinate Judge or *Munsif* is a Subordinate Judge or *Munsif*, as the case may be, within the meaning of this section.

(5) The present local limits of the jurisdiction of every Civil Court under this Act shall be deemed to have been fixed under this section.

**14.** (1) The Local Government may, by notification<sup>[1]</sup> in the official Gazette, fix and alter the place or places at which any Civil Court under this Act is to be held.

(2) All places at which any such Courts are now held shall be deemed to have been fixed under this section.

**15.** (1) Subject to such orders as may be made by the Governor General in Council, [in the case of the High Court at Calcutta and by the Local Government in other cases]<sup>[2]</sup> the High Court shall prepare a list of days to be observed in each year as closed holidays in the Civil Courts.

(2) The list shall be published in the local official Gazette.

(3) A judicial act done by a Civil Court on a day specified in the list shall not be invalid by reason only of its having been done on that day.

**16.** Every Civil Court under this Act shall use a seal of such form and dimensions as are prescribed by the Local Government.

[1] For lists of notifications issued under s. 13 (1), see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV

[2] The words in square brackets were inserted by the Devolution Act, 1920 (35 of 1920), s. 2 and Sch. I, *post*, p. 672.

(Secs. 17-20.)

**17.** (1) Where any Civil Court under this Act has from any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to that case which, if that Court had not ceased to have jurisdiction, might have been had therein may be had in the Court to which the business of the former Court has been transferred.

Continuance  
of proceed-  
ings of  
Courts ceas-  
ing to have  
jurisdiction.

(2) Nothing in this section applies to cases for which provision is made in section 623 or section 649 of the Code of Civil Procedure<sup>[1]</sup> or in any other enactment for the time being in force.

### CHAPTER III.

#### ORDINARY JURISDICTION.

**18.** Save as otherwise provided by any enactment for the time being in force, the jurisdiction of a District Judge or Subordinate Judge extends, subject to the provisions of section 15 of the Code of Civil Procedure,<sup>[2]</sup> to all original suits for the time being cognizable by Civil Courts.

Extent of  
original  
jurisdiction  
of District  
or Subordi-  
nate Judge.

**19.** (1) Save as aforesaid, and subject to the provisions of sub-section (2), the jurisdiction of a *Munsif* extends to all like suits of which the value does not exceed one thousand rupees.

Extent of  
jurisdiction  
of *Munsif*.

(2) The Local Government may, on the recommendation of the High Court, direct by notification in the official Gazette, with respect to any *Munsif* named therein, that his jurisdiction shall extend to all like suits of such value not exceeding [four]<sup>[3]</sup> thousand rupees as may be specified in the notification :

[4][Provided that the Local Government may, by notification in the local official Gazette, delegate to the High Court its powers under this section.]

**20.** (1) Save as otherwise provided by any enactment for the time being in force, an appeal from a decree or order of a District Judge or Additional Judge shall lie to the High Court.

Appeals  
from  
District and  
Additional  
Judges

[1] Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (5 of 1908), and this reference should now be taken to ss. 36, 37 and 114 of, and rule 1 in Order XLVII in Schedule I to, that Code—see s. 158 thereof.

[2] This reference should now be taken to s. 15 of the Code of Civil Procedure, 1908 (5 of 1908)—see s. 158 thereof.

[3] This word was substituted for the word "two" by the Bihar and Orissa Civil Courts (Amendment) Act, 1922 (B. and O. Act 4 of 1922), s. 2, in Vol. III of this Code.

[4] Introduced by the Decentralization Act, 1914 (4 of 1914), s. 2, Sch. Part I, *post*, p. 655.



(Secs. 21-23.)

(2) An appeal shall not lie to the High Court from a decree or order of an Additional Judge in any case in which, if the decree or order had been made by the District Judge, an appeal would not lie to that Court.

Appeals  
from  
Subordinate  
Judges and  
*Munsifs*.

**21.** (1) Save as aforesaid, an appeal from a decree or order of a Subordinate Judge shall lie—

(a) to the District Judge where the value of the original suit in which or in any proceeding arising out of which the decree or order was made did not exceed five thousand rupees, and

(b) to the High Court in any other case.

(2) Save as aforesaid, an appeal from a decree or order of a *Munsif* shall lie to the District Judge.

(3) Where the function of receiving any appeals which lie to the District Judge under sub-section (1) or sub-section (2) has been assigned to an Additional Judge, the appeals may be preferred to the Additional Judge.

(4) The High Court may, with the previous sanction of the Local Government, direct, by notification in the official Gazette, that appeals lying to the District Judge under sub-section (2) from all or any of the decrees or orders of any *Munsif* shall be preferred to the Court of such Subordinate Judge as may be mentioned in the notification, and the appeals shall thereupon be preferred accordingly.

#### CHAPTER IV.

##### SPECIAL JURISDICTION.

Power to  
transfer to  
Subordinate  
Judges  
appeals  
from  
*Munsifs*.

**22.** (1) A District Judge may transfer to any Subordinate Judge under his administrative control any appeals pending before him from the decrees or orders of *Munsifs*.

(2) The District Judge may withdraw any appeal so transferred, and either hear and dispose of it himself or transfer it to a Court under his administrative control competent to dispose of it.

(3) Appeals transferred under this section shall be disposed of subject to the rules applicable to like appeals when disposed of by the District Judge.

Exercise by  
Subordinate  
Judge or  
*Munsif* of

**23.** (1) The High Court may, by general or special order,<sup>[1]</sup> authorize any Subordinate Judge or *Munsif* to take cognizance of, or any

[1] For a list of orders made under s. 23 (1), see the Bihar and Orissa Local Statutory Rules and Orders. Vol. I. Part IV.

## (Sec. 24.)

District Judge to transfer to a subordinate Judge or *Munsif* under his administrative control, any of the proceedings next hereinafter mentioned or any class of those proceedings specified in the order.

jurisdiction  
of District  
Court in  
certain  
proceedings.

(2) The proceedings referred to in sub-section (1) are the following, namely :—

(a) proceedings under Bengal Regulation 5, 1799<sup>[1]</sup> (*to limit the Interference of the Zila and City Courts of Diwāni Adālat in the Execution of Wills and Administration to the Estates of persons dying intestate*);

[2]\* \* \* \* \*

10 of 1865  
5 of 1881.

(d) proceedings under the Indian Succession Act, 1865,<sup>[3]</sup> and the Probate and Administration Act, 1881, <sup>[4]</sup> which cannot be disposed of by District Delegates; and

14 of 1882.

(e) references by Collectors under section 322C of the Code of Civil Procedure.<sup>[5]</sup>

(3) The District Judge may withdraw any such proceedings taken cognizance of by, or transferred to, a Subordinate Judge or *Munsif*, and may either himself dispose of them or transfer them to a Court under his administrative control competent to dispose of them.

24. (1) Proceedings taken cognizance of by, or transferred to, a Subordinate Judge or *Munsif*, as the case may be, under the last foregoing section shall be disposed of by him subject to the rules applicable to like proceedings when disposed of by the District Judge :

Disposal of  
proceedings  
referred to  
in last fore-  
going  
section.

Provided that an appeal from an order of a *Munsif* in any such proceeding shall lie to the District Judge.

(2) An appeal from the order of the District Judge on the appeal from the order of the *Munsif* under this section shall lie to the High Court if a further appeal from the order of the District Judge is allowed by the law for the time being in force.

[1] The Bengal Wills and Intestacy Regulation, 1799. It is printed *ante*, p. 75.

[2] Clause (b) [which referred to proceedings under Act 40 of 1858 (Minors) or Act 9 of 1861 (Minors)] and clause (c) [which referred to applications for certificates under Act 27 of 1860 (Succession)] were repealed by the Guardians and Wards Act, 1890, (8 of 1890), printed in General Acts, 1887-97, Ed. 1928, p. 87, and the Succession Certificates Act, 1889 (7 of 1889), printed in General Acts, 1887-97, Ed. 1928, p. 73, respectively, and are omitted.

[3] See now the Indian Succession Act, 1925 (39 of 1925), printed in General Acts, 1924-27, Ed. 1928, p. 239.

[4] See *ibid.*

[5] Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (5 of 1908), and this reference should now be taken to be made to rule 5 in Sch. III to that Code—see s. 158 thereof.

(Secs. 25-28.)

Power to  
invest Sub-  
ordinate  
Judges and  
*Munsifs*  
with Small  
Cause  
Court juris-  
diction

**25.** The Local Government may, by notification<sup>[1]</sup> in the official Gazette, confer, within such local limits as it thinks fit, upon any Subordinate Judge or *Munsif* the jurisdiction of a Judge of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887 <sup>[2]</sup> for the trial of suits cognizable by such Courts, up to such value not exceeding five hundred rupees in the case of a Subordinate Judge or <sup>[3]</sup> [two hundred and fifty rupees] in the case of a *Munsif* as it thinks fit, and may withdraw any jurisdiction so conferred.

<sup>[4]</sup> [Provided that the Local Government may, by notification in the local official Gazette, delegate to the High Court its powers under this section.]

## CHAPTER V.

### MISFEASANCE.

Suspension  
or removal  
of judges  
by Local  
Government

**26.** Any District Judge, Additional Judge, Subordinate Judge or *Munsif* may, for any misconduct, be suspended or removed by the Local Government

Suspension  
of Subordi-  
nate Judge  
by High  
Court

**27.** (1) The High Court may, whenever it sees urgent necessity for so doing, suspend a Subordinate Judge.

(2) Whenever the High Court suspends a Subordinate Judge under sub-section (1), it shall forthwith report to the Local Government the circumstances of the suspension and the Local Government shall make such order with respect thereto as it thinks fit.

Suspension  
or removal  
of *Munsif*  
by High  
Court

**28.** (1) The High Court may appoint a commission for inquiring into alleged misconduct of a *Munsif*.

(2) On receiving the report of the result of the inquiry, the High Court may, if it thinks fit, remove or suspend the *Munsif*

(3) The provisions of Act no 37 of 1850<sup>[5]</sup> (*for regulating Inquiries into the behaviour of Public Servants*) shall apply to inquiries under this section, the powers conferred by that Act on the Government being exercised by the High Court.

[1] For a notification issued under s 25, see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

[2] Printed in General Acts, 1887-97, Ed 1928, p 9

[3] The words "two hundred and fifty rupees" in s 25 were substituted for the words "one hundred rupees" by the Bengal, Agra and Assam Civil Courts (Amendment) Act, 1911 (16 of 1911), s 4, *post*, p 643

[4] Introduced by the Decentralization Act, 1914 (4 of 1914), s. 2, Sch. Part I, *post*, p 653

[5] The Public Servants (Inquiries) Act, 1850 It is printed in General Acts, 1850-72, Ed. 1928, p 51.

(Secs. 29-32.)

(4) The High Court may, before appointing the commission, suspend the *Munsif* pending the result of the inquiry.

(5) The High Court may, without appointing a commission, remove or suspend a *Munsif*.

29. (1) A District Judge may, whenever he sees urgent necessity for so doing, suspend a *Munsif* under his administrative control. Suspension of *Munsif* by District Judge

(2) Whenever a District Judge suspends a *Munsif* under sub-section (1), he shall forthwith report to the High Court the circumstances of the suspension, and the High Court shall make such order with respect thereto as it thinks fit.

## CHAPTER VI.

### MINISTERIAL OFFICERS.

30. District Judges shall appoint the ministerial officers of their Courts and, subject only to the control of the Local Government, may remove or suspend those officers or fine them in an amount not exceeding one month's salary. Appointment and removal of ministerial officers of District Courts.

31. (1) The ministerial officers of the Civil Courts subject to the administrative control of the District Judge shall be appointed— Appointment and removal of ministerial officers of other Courts.

(a) in the case of an appointment not likely to last, and not lasting, longer than two months, by those Courts, and

(b) in any other case, by the District Judge.

(2) An Additional Judge, Subordinate Judge or *Munsif* may, by order, remove or suspend, or fine in an amount not exceeding one month's salary, any ministerial officer of his Court who is guilty of misconduct or neglect in the performance of the duties of his office

32. The provisions of the two last foregoing sections shall be subject to the following modifications in their application to ministerial officers employed by more Civil Courts than one, namely :— Appointment and removal of ministerial officers on joint establishments.

(a) appointments not likely to last, and not lasting, longer than two months shall be made by the Court of the highest class among those Courts, or, where there is no difference in class among those Courts, by the senior among the presiding Judges thereof; and

(b) such ministerial officers may not be removed or suspended by any Court except the Court which under clause (a) of this section is for the time being charged with the duty of making appointments to fill temporary vacancies.

(Secs. 33-36.)

General  
powers of  
District  
Judge.

**33.** The District Judge, subject only to the control of the Local Government, may, by order, suspend or remove any ministerial officer to whom section 31 or section 32 applies, and may, on appeal or otherwise, reverse or modify any order made under either of those sections by any Court under his administrative control.

Transfer of  
ministerial  
officers

**34.** (1) The Local Government may, at the instance of the High Court or of a District Judge, transfer a ministerial officer from any Civil Court under this Act to any other such Court :

[<sup>1</sup>][Provided that the Local Government may, by notification in the local official Gazette, delegate to the High Court its powers under this section.]

(2) The District Judge may transfer a ministerial officer from any such Court within the local limits of his jurisdiction to any other such Court within those limits.

Recovery  
of fines.

**35.** Any fine imposed under this Chapter may be recovered by deduction from the salary of the person fined.

## CHAPTER VII.

### SUPPLEMENTAL PROVISIONS.

Power to  
confer  
powers of  
Civil Courts  
on officers.

**36.** (1) The Local Government may invest with the powers of any Civil Court under this Act, by name or in virtue of office,—

(a) any officer in the Chota Nagpur, [<sup>2</sup>Sambalpur, [*Jalpaiguri or Darjeeling district*] [*or in any part of the territories administered by the Chief Commissioner of Assam, except the district of Sylhet,*] or,

(b) after consultation with the High Court, any officer serving in any other part of the territories to which this Act extends and belonging to a class defined in this behalf by the Local Government[<sup>3</sup>] \* \* \* \*

(2) Nothing in sections 4 to 8 (both inclusive), or sections 10 to 12 (both inclusive), or sections 27 to 35 (both inclusive), applies to any

[1] Introduced by the Decentralization Act, 1914 (4 of 1914), s. 2, Sch., Part I, *post* p. 653.

[2] The word "Sambalpur" was inserted by the Sambalpur Civil Courts Act, 1906, (Ben. Act 4 of 1906), s. 6 printed in the supplement to this Code.

[3] The words "with the previous sanction of the Governor-General in Council" were repealed by the Devolution Act, 1920 (38 of 1920), section 2 and Sch. I, *post*, p. 672, and are omitted.

## (Secs. 37-38.)

officer so invested, but all the other provisions of this Act shall, so far as those provisions can be made applicable, apply to him as if he were a Judge of the Court with the powers of which he is invested.

(3) Where, in the territories mentioned in clause (a) of sub-section (1), the same local jurisdiction is assigned to two or more officers invested with the powers of a *Munsif*, the officer invested with the powers of a District Judge may, with the previous sanction of the Local Government, delegate his functions under sub-section (2) of section 13 to an officer invested with the powers of a Subordinate Judge or to one of the officers invested with the powers of a *Munsif*.

(4) Where the place at which the Court of an officer invested with powers under sub-section (1) is to be held has not been fixed under section 14, the Court may be held at any place within the local limits of its jurisdiction.

**37.** (1) Where in any suit or other proceeding it is necessary for a Civil Court to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution, the Muhammadan law in cases where the parties are Muhammadans, and the Hindu law in cases where the parties are Hindus, shall form the rule of decision except in so far as such law has, by legislative enactment, been altered or abolished.

Certain decisions to be according to Native law.

(2) In cases not provided for by sub-section (1) or by any other law for the time being in force, the Court shall act according to justice, equity and good conscience.

**38.** (1) The presiding officer of a Civil Court shall not try any suit or other proceeding to which he is a party or in which he is personally interested.

Judges not to try suits in which they are interested.

(2) The presiding officer of an appellate Civil Court under this Act shall not try an appeal against a decree or order passed by himself in another capacity.

(3) When any such suit, proceeding or appeal as is referred to in sub-section (1) or sub-section (2) comes before any such officer, the officer shall forthwith transmit the record of the case to the Court to which he is immediately subordinate, with a report of the circumstances attending the reference.

(4) The superior Court shall thereupon dispose of the case under section 25 of the Code of Civil Procedure.<sup>[1]</sup>

[1] Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (5 of 1908), and this reference should now be taken to be made to s. 24 of that Code—see s. 158 thereof.

(Secs. 39-40.)

(5) Nothing in this section shall be deemed to affect the extraordinary original civil jurisdiction of the High Court.

Subordina-  
tion of  
Courts to  
District  
Court.

**39.** For the purposes of the last foregoing section the presiding officer of a Court subject to the administrative control of the District Judge shall be deemed to be immediately subordinate to the Court of the District Judge, and, for the purposes of the Code of Civil Procedure<sup>[1]</sup> the Court of such an officer shall be deemed to be of a grade 14 of 1882 inferior to that of the Court of the District Judge.

Application  
of Act to  
Provincial  
Courts of  
Small  
Causes.

**40.** (1) This section and sections 15, 32, 37, 38 and 39 apply to Courts of Small Causes constituted under the Provincial Small Cause Courts Act, 1887.<sup>[2]</sup>

9 of 1887.

(2) Save as provided by that Act, the other sections of this Act do not apply to these Courts.

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[1] This reference should now be taken to be made to the Code of Civil Procedure 1908 (5 of 1908)—see s. 158 thereof.

[2] Printed in General Acts, 1887-97, Ed. 1928, p. 9.

ACT 4 OF 1892.

[THE COURT OF WARDS ACT (BENGAL) AMENDMENT ACT, 1892.][<sup>1</sup>]

(25th March, 1892.)

An Act to Amend the Bengal Court of Wards Act, 1879.[<sup>2</sup>]

Ben. Act 9  
of 1879.

Whereas it is expedient to amend the Court of Wards Act, 1879,[<sup>2</sup>]  
passed by the Lieutenant-Governor of Bengal in Council; It is hereby  
enacted as follows :—

1. (1) This Act shall be read with, and taken as part of, the Act Construction.  
aforesaid;

(Commencement.) Rep. by the Amending Act, 1903 (1 of 1903).

2. In section 3, at the end of the clause defining “ estate,” the Addition to  
following words shall be added, namely :— section 3.

“ and includes a share in or of an estate other than an undivided  
share held in coparcenary as the property of a Hindu joint family  
governed by the *Mitakshara* or *Mithila* law.”

3. To section 6 the following clause shall be added, namely :— Addition to  
section 6.

(e) [Printed in Vol. II of this Code.]

4. To section 7 the following proviso shall be added, namely :— Addition to  
section 7.

[Printed in Vol. II of this Code.]

5. At the end of section 9 the following shall be added, namely :— Addition to  
section 9.

[The matter added to section 9 by this section has since been  
repealed—

by the Bengal Court of Wards (Amendment) Act, 1906 (Ben.  
Act 1 of 1906), s. 2, printed in Vol. II of this Code.]

6. In section 10, in the place of the first two clauses the following Amendment  
shall be inserted, namely :— of section  
10.

[Printed in Vol. II of this Code.]

[1] SHORT TITLE.—This short title was given by the Amending Act, 1897 (5 of 1897),  
Sch. III—see *post*, p. 543.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Gazette of India,  
1892, Part V, p. 17; for Report of Select Committee, see *ibid*, p. 23; and for Proceedings  
in Council, see *ibid*, Pt. VI, pp. 20, 25 and 42.

LOCAL EXTENT.—Since this Act is (see s. 1) to be “ read with and taken as part of ”  
Bengal Act 9 of 1879, its local extent is the same as that of the latter Act, as to which  
see foot-note to that Act, in Vol. II of this Code.

[2] Printed in Vol. II of this Code.



(Secs. 7-13.)

Substitution  
of new  
section 11.

**7.** For section 11 the following section shall be substituted, namely :—

[Printed in Vol II of this Code.]

Amendment  
of sec-  
tion 12

**8.** In section 12, for the words “ which before the commencement of this Act was placed,” the following words shall be substituted, namely :—

“ which either before or after the commencement of this Act was or is placed ;”

and at the end of the first clause, after the figures “1858,” the following words shall be added, namely :—

“ or under any other enactment for the time being in force.”

**9.** (*Repeal of proviso in Clause III, section 48.*) *Rep. by the Amending Act, 1897 (5 of 1897).*

Amendment  
of sec-  
tion 49

**10.** In section 49, for the words “ remains under the charge of the Court with his consent under section 11,” the following words shall be substituted, namely :—

“ is under the charge of the Court under clause (e) of section 6, or under the second clause of section 11.”

Amendment  
of sec-  
tion 56

[<sup>1</sup>]**11.** In section 56, instead of the words “ who has consented to leave his property under the charge of the Court of Wards, as provided in the second clause of section 11,” the following words shall be substituted, namely :—

“ whose property is under the charge of the Court under clause (e) of section 6, or under the second clause of section 11.”

Addition to  
section 60.

**12.** To section 60 the following words shall be added, namely :—  
“ or to assign over or charge any allowance to be received by him from the Court.”

Insertion of  
new section  
after section  
60.

**13.** After section 60 the following section shall be inserted, namely :—

60A. [Printed in Vol II of this Code.]

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[1] S 11 of this Act has been virtually repealed by the Bengal Court of Wards (Amendment) Act, 1906 (Ben Act 1 of 1906), s 6, printed in Vol II of this Code.

ACT 5 OF 1892.

(THE BENGAL MILITARY POLICE ACT, 1892.)<sup>[1]</sup>

(25th March, 1892.)

**An Act for the Regulation of the Bengal Military Police.**

Whereas it is expedient to make provision for the better regulation of the Bengal Reserve Police; It is hereby enacted as follows:—

1. (1) This Act may be called the Bengal Military Police Act, 1892. Title, extent  
and com-  
mencement.

(2) It extends to the whole of the territories subject to the Lieutenant-Governor of Bengal;<sup>[2]</sup> and

(3) It shall come into force on such day<sup>[3]</sup> as the Local Government may, by notification in the Calcutta Gazette, appoint in this behalf.

2. In this Act, unless there is something repugnant in the subject or context,—

(1) “ Military Police-officer ” means a person, appointed to the Bengal Police Force under section 7 of Act 5 of 1861,<sup>[4]</sup> who has signed the statement in the Schedule to this Act, in accordance with the provisions of this Act:

(2) “ active service ” means service against hostile tribes or other persons in the field:

(3) “ District Magistrate ” includes a Deputy Commissioner, an Assistant Commissioner in charge of a sub-division [*and the Superintendent of the South Lushai Hills:*]

(4) “ Commandant ” means a person appointed by the Local Government to be a Commandant of Military Police, and includes a District Superintendent of Police and an Assistant District Superintendent of Police in charge of the civil police of a district or of a sub-division:

(5) “ Second-in-Command ” means a person appointed by the Local Government to be a Second-in-Command of Military Police, and

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[1] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Gazette of India, 1892, Part V, p. 22: and for Proceedings in Council, see *ibid*, Part VI, pp. 22, 35 and 52.

LOCAL EXTENT.—This Act extends to the whole of the former Province of Bengal—see s. 1 (2). It is in force in the Sonthal Parganas—see Vol. IV, Part IV; but its application is barred in the Angul District by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), printed *post*, p. 768.

[2] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

[3] The 1st May 1892—see the Calcutta Gazette, 1892, Part I, p. 449.

[4] The Police Act, 1861. It is printed in General Acts, 1834-72, Ed. 1928, p. 114.

(Secs. 3-5.)

includes an Assistant District Superintendent of Police not in charge of the civil police of a district or of a subdivision : and

(6) the expressions "reason to believe," "criminal force," "assault," "fraudulently" and "voluntarily causing hurt" have the meanings assigned to them respectively in the Indian Penal Code.

45 of 1860

Enrolment  
and dis-  
charge of  
Military  
Police-  
officers.

3. (1) Before an officer appointed to the Bengal Police Force under section 7 of Act 5 of 1861<sup>[1]</sup> is appointed to be a Military Police-officer, the statement in the Schedule shall be read and if necessary explained to him in the presence of a Magistrate, Commandant or Second-in-Command, and shall be signed by him in acknowledgment of its having been so read to him.

(2) Notwithstanding any notice given under section 9 of Act 5 of 1861<sup>[1]</sup>, a Military Police-officer shall not be entitled to be discharged from the Bengal Police Force except in accordance with the terms of the statement which he has signed under this Act.

Classes and  
grades of  
Military  
Police  
officers.

4. (1) There may be all or any of the following classes of Military Police-officers, which shall take rank in the order mentioned, namely :—

- |                               |                            |
|-------------------------------|----------------------------|
| (i) <i>subadars-major</i> ,   | (v) <i>havildars</i> ,     |
| (ii) <i>subadars</i> ,        | (vi) <i>naiks</i> ,        |
| (iii) <i>jamadars</i> ,       | (vii) <i>buglers</i> , and |
| (iv) <i>havildars-major</i> , | (viii) <i>sepoys</i> ,     |

and such grades in each class as the Local Government may direct.

(2) The expression "superior officer" in this Act means in relation to any Police-officer :—

- (a) any officer of a higher class than or of a higher grade in the same class as himself, and
- (b) any Second-in-Command, Commandant or District Magistrate.

More  
heinous  
offences.

5. A Military Police-officer who—

- (a) begins, excites, causes or joins in any mutiny or sedition, or, being present at any mutiny or sedition, does not use his utmost endeavours to suppress it, or, knowing or having reason to believe in the existence of any mutiny, or of any intention to mutiny, does not without delay give information thereof to his commanding or other superior officer; or

[1] The Police Act, 1861. It is printed in General Acts, 1834-72, Ed. 1928, p. 114.

## (Sec. 6.)

- (b) uses, or attempts to use, criminal force to, or commits an assault on, his superior officer, whether on or off duty; or
- (c) shamefully abandons or delivers up any garrison, fortress, post or guard which is committed to his charge or which it is his duty to defend; or
- (d) directly or indirectly holds correspondence with, or assists or relieves any person in arms against the State, or omits to discover immediately to his commanding or other superior officer any such correspondence coming to his knowledge :  
or

who, while on active service,—

- (e) disobeys the lawful command of his superior officer; or
- (f) deserts the service; or
- (g) being a sentry, sleeps upon his post, or quits it without being regularly relieved or without leave; or
- (h) without authority leaves his commanding officer, or his post or party to go in search of plunder; or
- (i) quits his guard, picquet, party or patrol without being regularly relieved or without leave; or
- (j) uses criminal force to, or commits an assault on, any person bringing provisions or other necessaries to camp or quarters, or forces a safeguard, or without authority breaks into any house or any other place for plunder, or plunders, destroys or damages any property of any kind; or
- (k) intentionally causes or spreads a false alarm in action, camp, garrison or quarters,

shall be punished with transportation for life or for a term of not less than seven years, or with imprisonment for a term which may extend to fourteen years, or with fine which may extend to three months' pay, or with fine to that extent in addition to such sentence of transportation or imprisonment, as the case may be, as may be passed upon him under this section.

**6. A Military Police-officer who—**

- (a) is in a state of intoxication when on or for any duty or on parade or on the line of march; or
- (b) strikes or attempts to force any sentry; or
- (c) being in command of a guard, picquet or patrol refuses to receive any prisoner duly committed to his charge, or

Less heinous offences.

*(Sec. 6.)*

without proper authority releases any prisoner, or negligently suffers any prisoner to escape; or

(d) being under arrest or in confinement, leaves his arrest or confinement before he is set at liberty by proper authority: or

(e) is grossly insubordinate or insolent to his superior officer in the execution of his office; or

(f) refuses to superintend or assist in the making of any field-work or other work of any description ordered to be made either in quarters or in the field; or

(g) strikes or otherwise ill-uses any military Police-officer subordinate to him in rank or position; or

(h) being in command at any post or on the march, and receiving a complaint that any one under his command has beaten or otherwise maltreated or oppressed any person, or has committed any riot or trespass, fails, on proof of the truth of the complaint, to have due reparation made as far as possible to the injured person and to report the case to the proper authority; or

(i) designedly or through neglect injures or loses, or fraudulently disposes of, his arms, clothes, tools, equipments, ammunition, accoutrements or Military Police necessities, or any such articles entrusted to him or belonging to any other person; or

(j) malingers, or feigns or produces disease or infirmity in himself, or intentionally delays his cure, or aggravates his disease or infirmity; or

(k) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or any other person; or

who, while not on active service,—

(l) disobeys the lawful command of his superior officer; or

(m) plunders, destroys or damages any property of any kind; or

(n) being a sentry, sleeps upon his post or quits it without being regularly relieved or without leave; or

(o) deserts the service;

shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to three months' pay or with both.

(Secs. 7-10.)

7. (1) A District Magistrate, Commandant or Second-in-Command, or an officer not being below the rank of *subadar* commanding a separate detachment or an outpost or in temporary command at the head-quarters of a district during the absence of the District Magistrate, Commandant and Second-in-Command may, without a formal trial, award to any Military Police-officer who is subject to his authority any of the following punishments for the commission of any petty offence against discipline which is not otherwise provided for in this Act, or which is not of a sufficiently serious nature to call for a prosecution before a Criminal Court, that is to say—

Minor punishments

(a) imprisonment to the extent of seven days in the quarter-guard or such other place as may be considered suitable, with forfeiture of all pay and allowances during its continuance;

(b) punishment drill, extra guard, fatigue, or other duty, not exceeding thirty days in duration, with or without confinement to quarters.

(2) Any one of these punishments may be awarded separately or in combination with any one or more of the others.

8. A person sentenced under this Act to imprisonment for a period not exceeding three months shall, when he is also dismissed from the Bengal Police Force, be imprisoned in the nearest or such other jail as the Local Government may, by general or special order, direct; but, when he is not also dismissed from that force, he may, if the convicting officer or District Magistrate, so directs, be confined in the quarter-guard or such other place as the convicting officer or District Magistrate may consider suitable.

Place of imprisonment.

9. (1) Nothing in this Act shall prevent any person from being prosecuted under Act 5 of 1861,<sup>[1]</sup> or under any order or rule made under that Act or under any other enactment for the time being in force for any act or omission punishable hereunder, or from being liable, if so prosecuted, to any other or higher penalty than is provided for that act or omission by this Act:

Saving of prosecution under other laws.

(2) Provided that no person shall be punished twice for the same offence.

10. Notwithstanding anything in Act 5 of 1861,<sup>[1]</sup> or in any other enactment for the time being in force, the Local Government may invest any Police-officer, not below the rank of Commandant, with the

Conferment of magisterial powers

[1] The Police Act, 1861. It is printed in General Acts, 1834-72, Ed. 1928, p. 114.

(Secs. 11-13; Schedule.)

on police-officers.

powers of a Magistrate of any class for the purpose of inquiring into or trying any offence committed by a Military Police-officer and punishable under Act 5 of 1861<sup>[1]</sup> or this Act.

Disciplinary and other powers of Commandant and Second-in-Command of Military Police otherwise than in respect of Military Police.

Privileges of Commandant and Second-in-Command of Military Police as Police-officers. Power to make rules.

**11.** Subject to such rules<sup>[2]</sup> as the Local Government may make in this behalf, a Commandant or Second-in-Command of Military Police shall have, with respect to Police-officers appointed to the Bengal Police Force under section 7 of Act 5 of 1861<sup>[1]</sup>, who are not Military Police-officers, the same disciplinary powers as a District Superintendent of Police has with respect to them under that section.

**12.** A Commandant or Second-in-Command of Military Police shall be entitled to all the privileges which a Police-officer has under sections 42 and 43 of Act 5 of 1861,<sup>[1]</sup> section 125<sup>[3]</sup> of the Indian Evidence Act, 1872, and any other enactment for the time being in force.

1 of 1872.

**13.** The Local Government may, as regards the Military Police, make such orders and rules,<sup>[4]</sup> consistent with this Act, as it thinks expedient.

## SCHEDULE.

### STATEMENT.

(See sections 2 and 8.)

After you have served for three years in the Bengal Military Police, you may, at any time when not on active service, apply for your discharge through the officer to whom you may be subordinate, to a Commandant of Military Police or to the District Magistrate of the district in which you may be serving, and you will be granted your discharge after two months from the date of your application unless your discharge would cause the vacancies in the Bengal Military Police to exceed one-tenth of the sanctioned strength; in that case you must remain until this objection is waived by competent authority or removed. But when on active service you have no claim to a discharge, and you must remain and do your duty until the necessity for retaining you in the Bengal

[1] The Police Act, 1861. It is printed in General Acts, 1834-72, Ed. 1928, p. 114.

[2] For rules made under s. 11, see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

[3] Printed in General Act, 1834-72, Ed. 1928, p. 365.

[4] For rules made under s. 13, see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

*(Schedule.)*

Military Police ceases when you may make your application in the manner hereinbefore prescribed. In the event of your re-enlistment, after you have been discharged, you will have no claim to reckon for pension or any other purpose your service previous to your discharge.

(Signature of Police-officer in acknowledgment of the above having been read to him.)

A. B.

Signed in my presence after I had ascertained that A. B. understood the purport of what he signed.

C. D.

Magistrate. Command-  
ant or Second-in-Com-  
mand.



ACT 2 OF 1893.[<sup>1</sup>]

(THE PORAHAT ESTATE ACT, 1893.)

(3rd February, 1893.)

**An Act to annex the Estate of Porahat to the Singhbhum District, and for certain other purposes.**

Whereas the estate of Porahat was confiscated by the British Government in the year 1858 and is now under the administration of the officer holding the appointment of Deputy Commissioner of the Singhbhum district;

And whereas the said estate has, by proclamation, been declared and appointed by the Governor General in Council to be subject to the Lieutenant-Governorship of Bengal;

And whereas it is expedient that the said estate should be annexed to the Singhbhum district, and should, as forming part of that district, be declared for the purposes of the Scheduled Districts Act, 1874,<sup>[2]</sup> 14 of 1874. to form part also of the scheduled district described in that Act as the Chota Nagpur Division :

It is hereby enacted as follows :—

Title.

1. (1) This Act may be called the Porahat Estate Act, 1893.

[Commencement.] *Rep. by the Amending Act, 1903 (1 of 1903).*

Annexation  
of Porahat  
estate to  
Singhbhum  
District.  
Estate to be-  
come part of  
the schedule  
district of  
Chota Nag-  
pur

2. The estate of Torahat shall henceforth become and be part of the Singhbhum District.

3. The said estate of Porahat, as forming part of the Singhbhum District, shall form part of the scheduled district described in Part III of the first schedule to the Scheduled Districts Act, 1874,<sup>[2]</sup> 14 of 1874. as the Chota Nagpur Division.

[1] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, *see* Gazette of India, 1892, Part V, p. 63 : and for Proceedings in Council, *see ibid*, Part VI, 1892, p. 68, Part VI, 1893, p. 34.

LOCAL EXTENT.—This Act applies only to the Porahat Estate, in the District of Singhbhum.

ENACTMENTS DECLARED IN FORCE IN THE PORAHAT ESTATE.—Several enactments have been specially declared in force in the Porahat Estate, by Notification under the Scheduled Districts Act, 1874—*see* Notifications No. 2296, dated the 2nd August, 1895, No. 447, dated the 24th January, 1896, and No. 1008, dated the 13th November, 1897, printed in Vol. IV, Part III. These notifications are not exhaustive—*see* Explanatory Notes Vol. IV, Part III.

[2] Printed in General Acts, 1873-86, Ed. 1926, p. 32.

(Sec. 4.)

4. All acts of executive authority, proceedings, decrees and sentences which have been done, taken or passed in or with respect to the said estate of Porahat since the beginning of the year 1858, and before the commencement of this Act, by an officer of the Government or by any person acting under his authority or otherwise in pursuance of an order of the Government and which have been or shall be ratified by the Lieutenant-Governor of Bengal, shall be deemed to have been done, taken and passed in accordance with law; and no suit or other proceeding shall be maintained or continued against any person whatever on the ground that any such acts, proceedings, decrees or sentences were not done, taken or passed in accordance with law.

Validation  
acts done  
since the  
beginning  
of 1858.

ACT 11 OF 1893.

(THE TRIBUTARY MAHALS OF ORISSA ACT, 1893.)<sup>[1]</sup>

(21st September, 1893.)

**An Act to make provision for certain matters connected with the  
Tributary Mahals of Orissa.**

Whereas it is expedient \* \* \*<sup>[2]</sup> to indemnify certain persons and validate acts done by them in, or in relation to, the said *Mahals* and to admit of certain sentences passed in those *Mahals* being carried into effect in British India; It is hereby enacted as follows:—

Title and  
extent.

1. (1) This Act may be called the Tributary Mahals of Orissa Act, 1893.

(2) It extends to the whole of British India.

(Commencement.) *Rep. by the Amending Act, 1903 (1 of 1903).*

2. (Repeal.) *Rep. by the Amending Act, 1903 (1 of 1903).*

Indemnity  
in respect  
of acts done  
before the  
commence-  
ment of  
this Act.

3. No suit, prosecution or other proceeding shall be begun or continued in respect of any act done before the commencement of this Act by any officer of the Government in respect of any of the Tributary *Mahals* of Orissa or any inhabitant thereof, such act purporting to have been done in the exercise of executive or judicial authority, and having, before or after the commencement of this Act, been ratified by the Government; and every such act is hereby confirmed and made valid, and every such officer indemnified and discharged from liability in respect thereof.

Execution  
in British  
India of  
certain sen-  
tences pass-  
ed in Tribu-  
tary  
*Mahals*.

4. (1) The Lieutenant-Governor of Bengal may authorize<sup>[3]</sup> the reception, detention or imprisonment in any place under his Government, for the period specified in the sentence, of—

(a) any person sentenced to imprisonment or transportation for any term by any Court or tribunal acting under the authority of the British Government in, or in respect of, any Tributary *Mahal* in Orissa;

(b) any Native Indian subject of Her Majesty residing in any such *Mahal*, or any Native subject of a Chief of any such

[1] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Gazette of India, 1893, Part V, p. 96; and for Proceedings in Council, see *ibid*, Part VI, pp. 191, 196, 202 and 203.

LOCAL EXTENT.—This Act extends to the whole of British India—see s. 1.

[2] The words “to repeal certain enactments relating to the Tributary *Mahals* of Orissa, and,” which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[3] For an order made under s. 4 (1), see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

(Sec 4 *The Schedule*)

*Mahal*, when, in either case such Native subject as aforesaid has been sentenced by such a Chief or by a subordinate Court of such a Chief to imprisonment for a term exceeding six months

(2) The place or places within the territories subject to the Lieutenant-Governor of Bengal<sup>[1]</sup> in which persons may be received, detained or imprisoned under sub-section (1) shall be such as the said Lieutenant-Governor may, by general or special order, direct.

(3) A sentence shall be of the same force and effect in the place in which it may be carried into effect under this section as if it had been passed by a competent Court in that place.

THE SCHEDULE.

ENACTMENTS REPEALED.

*Rep. by the Amending Act, 1903 (1 of 1903).*

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[1] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

ACT 5 OF 1897.

(THE AMENDING ACT, 1897.)<sup>[1]</sup>

(25th<sup>h</sup> February, 1897.)

An Act \* \* \*<sup>[2]</sup> to amend and facilitate the citation of certain  
\* \*<sup>[3]</sup> enactments.

\* \* \* \* \*<sup>[4]</sup>

\* \*<sup>[4]</sup> whereas it is \* \*<sup>[4]</sup> expedient that certain formal amendments should be made in the enactments specified in the second Schedule to this Act;

And whereas it is also expedient to facilitate the citation of the enactments specified in the third Schedule to this Act;

It is hereby enacted as follows:—

Title and  
commence-  
ment.

1. (1) This Act may be called the \* \*<sup>[5]</sup> Amending Act, 1897;  
[6]\* \* \*

(2) (*Commencement.*) Rep. by Act 10 of 1914.

Enactments  
in second  
Schedule  
amended.

2. (1) (*Repeals.*) Rep. by the Amending Act, 1903 (1 of 1903).

(2) The enactments specified in the second Schedule shall be modified to the extent and in the manner mentioned in the fourth column thereof.

3. (*Savings.*) Rep. by the Amending Act, 1903 (1 of 1903).

[1] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Gazette of India, 1897, Part V, p. 50, and for Proceedings in Council, see *ibid*, Part VI, pp. 41 and 44.

LOCAL EXTENT.—Since this Act has no "local extent" clause, it must (so far as applicable) be taken to extend to the whole of British India. It is printed in this Code because portions of the Schedules which affect Bihar and Orissa are omitted from the Act as published in the General Acts, Ed. 1928.

OTHER ACTS CONFERRING SHORT TITLES.—For other Acts which confer short titles on a series of enactments, see the Indian Short Titles Act, 1897 (14 of 1897), in General Acts, 1887-97, Ed. 1928, p. 360, and the Amending Act, 1903 (1 of 1903), *post*, p. 616.

The Short Titles Act now in force in England is 59 and 60 Vict., c. 14, printed in the Collection of Statutes relating to India, Vol. II, Ed. 1913, p. 1099.

[2] The words "to repeal certain obsolete enactments and", in the title, which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[3] The word "other", in the title, which was repealed by *ibid* is omitted.

[4] Portions of the preamble which were repealed by *ibid*, are omitted.

[5] The words "Repealing and", in s. 1 (1), which were repealed by *ibid*, are omitted.

[6] Rep. by the Repealing and Amending Act, 1914 (10 of 1914), s. 3, Sch. II, *post*, p. 655.

(Sec. 4. *The First Schedule. The Second Schedule.*)

4. Each of the enactments described in the first three columns of the third Schedule may, without prejudice to any other mode of citation, be cited for all purposes by the short title mentioned in that behalf in the fourth column thereof.

Citation of  
certain en-  
actments.

### THE FIRST SCHEDULE.

*Rep. by the Amending Act, 1903 (1 of 1903).*

### THE SECOND SCHEDULE.<sup>[1]</sup>

1	2	3	4
Year.	No.	Short title or subject.	Amendment.

#### *Part I.—Act of the Governor-General in Council.*

#### *Part II.—Acts of the Lieutenant-Governor of Bengal in Council.*

\* \*  
\* \*

1887	2 [2]	Vaccination (Amending Bengal Act 5 of 1880).	To section 3 add :— The Schedule hereto annexed shall be annexed as The First Schedule to the Bengal Vaccination Act, 1880.
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#### *Part III.—Regulations made under the Government of India Act, 1870 (3 Vict. c. 3).*

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[1] Only so much of the Schedule as relates to the enactments printed in this Code is reproduced here.

[2] Printed in Volume II of this code.

## (The Second Schedule.)

## THE SECOND SCHEDULE—concl'd.

1	2	3	4
Year.	No.	Short title or subject	Amendment

*Part IV — Regulations of the Bengal Code*

1806	11 [1]	Passage of Troops	In section 4, clause third, for Governor General in Council, <i>in each place in which those words occur, read</i> Local Government.
1812	11 [2]	Removal of Foreign Immigrants	In section 5, clause second, for to the <i>Nizam Adalat</i> , who will recommend to the Governor General in Council such alleviation of the prescribed punishment as they may judge proper, <i>read</i> to the Local Government, and the Local Government shall pass such orders thereon as it may think fit For Governor General in Council, wherever those words occur, <i>read</i> Local Government
1823	7 [3]	Loans to Covenanted Officers	In section 3, for the words from All Judges to powers of such Collector <i>read</i> All Commissioners, District and Sessions Judges, Deputy Commissioners and Assistant Commissioners, being members of the Indian Civil Service In section 6 and also in section 8, for Governor General in Council <i>read</i> Local Government In section 8, for Government <i>read</i> the Local Government

[1] The Bengal Troops Transport and Travellers' Assistance Regulation, 1806 It is printed *ante*, p. 102

[2] The Bengal Foreign Immigrants Regulation, 1812. It is printed *ante*, p. 117

[3] The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1823. It is printed *ante*, p. 246

## (The Third Schedule.)

## THE THIRD SCHEDULE.

1	2	3	4
Year.	No.	Subject.	Short title.

*Part I.—Local Acts of the Governor-General in Council in force in Assam.*

1850	25 [1]	For the forfeiture to Government of deposits made on incomplete sales of land under Regulation 8, 1819.	The Forfeited Deposits Act, 1850.
1853	6 [2]	Relating to summary suit for arrears of rent, to sales of <i>patni taluks</i> and other saleable tenures, and to sales of land in satisfaction of summary decrees for rent.	The Rent Recovery Act, 1853.
	*	*	*
1867	3 [3]	To provide for the punishment of public gambling and the keeping of common gaming-houses in the North-Western Provinces of the Presidency of Fort William, and in the Punjab, Oudh, the Central Provinces and British Burma.	The Public Gambling Act, 1867.
	*	*	*
1886	3 [4]	To amend the Northern India Ferries Act, 1878.	The Northern India Ferries Amendment Act, 1886.
1892	4 [5]	To amend the Bengal Court of Wards Act, 1879 [Act 9 (B. C.) of 1879].	The Court of Wards Act (Bengal) Amendment Act, 1892.

*Part II.—Regulation made under the Government of India Act, 1870 (33 Vict., c. 3).*

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[1] Printed *ante*, p. 311.[2] Printed *ante*, p. 312.

[3] Printed in the supplement to this Code.

[4] Act 3 of 1886 applies only to Sambalpur and is printed in the supplement to Code.

[5] Printed *ante*, p. 527.



## (The Third Schedule)

THE THIRD SCHEDULE—*contd*

1	2	3	4
Year.	No.	Subject	Short title.

*Part III — Regulations of the Bengal Code in force in Assam*

1793	1 [¹]	For enacting into a Regulation certain Articles of a Proclamation bearing date the 22nd March, 1793	The Bengal Permanent Settlement Regulation, 1793.
„	2 [¹]	For abolishing the Courts of <i>Mal Adalat</i> or Revenue Courts, and transferring the trial of the suits which were cognizable in those Courts to the Courts of <i>Dwans Adalat</i> and prescribing Rules for the conduct of the Board of Revenue and the Collectors	The Bengal Land-Revenue Regulation, 1793.
„	8 [ ]	For re enacting, with modifications and amendments, the rules for the Decennial Settlement of the public revenue payable from the lands of the <i>zamindars</i> , independent <i>tahukdars</i> and other actual proprietors of land, in Bengal, Bihar and Orissa, passed for those provinces respectively on the 18th September, 1789, the 25th November, 1789, and the 10th February, 1790, and subsequent dates.	The Bengal Decennial Settlement Regulation, 1793.
„	11 [¹]	For removing certain restrictions to the operation of the Hindu and Muhammadan laws with regard to the inheritance of landed property subject to the payment of revenue to Government	The Bengal Inheritance Regulation, 1793.

[¹] Printed *ante*.

## (The Third Schedule.)

## THE THIRD SCHEDULE—contd.

1	2	3	4
Year.	No.	Subject.	Short title.
<i>Part III.—Regulations of the Bengal Code in force in Assam—contd.</i>			
1793	38 [1]	For re-enacting with modifications, such part of the rule passed on the 27th June, 1787, as prohibits Covenanted Civil Servants of the Company employed in the administration of justice or the collection of the public revenue lending money to <i>zamindars</i> , independent <i>talukdars</i> or other actual proprietors of land, or dependent <i>talukdars</i> or farmers of land holding farms immediately of Government, or the under-farmers or <i>rai-yats</i> of the several descriptions of proprietors or farmers of land above mentioned, or their respective sureties.	The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1793.
1799	5 [1]	To limit the interference of the <i>Zila Court of Diwani Adalat</i> in the execution of wills and administration to the estates of persons dying intestate.	The Bengal Wills and Intestacy Regulation, 1799.
1800	10 [1]	For preventing the division of landed estates in the <i>Jangal Mahals</i> of the <i>Zila</i> of Midnapore and other districts.	The Bengal Inheritance Regulation, 1800.
[2]*	*	* * * *	* * * *
1806	11 [1]	For facilitating the progress of detachments of troops through the Company's territories, for affording any requisite assistance to persons travelling through those territories.	The Bengal Troops Transport and Travellers' Assistance Regulation, 1806.

[2] The entry relating to Regulation 10 of 1804 (the Bengal State Offences Regulation, 1804) is omitted, as having been repealed by the Special Laws Repeal Act, 1922 (4 of 1922).

## (The Third Schedule.)

THE THIRD SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.

*Part III.—Regulations of the Bengal Code in force in Assam—contd.*

1812	11 [']	To empower the Governor General in Council to order the removal of emigrants from foreign countries, and their descendants from any place in the vicinity of the frontier of the State from which they may have emigrated; and, in certain cases, to place and detain any such persons in safe custody; and likewise to provide for the trial of emigrants and their descendants who may excite disturbances in the countries from which they may have emigrated, and of persons aiding them in the prosecution of such attempts.	The Bengal Foreign Immigrants Regulation, 1812.
1818	3 [']	For the confinement of State Prisoners.	The Bengal State Prisoners Regulation 1818.
1819	8 [']	To declare the validity of certain tenures, and to define the relative rights of <i>zamindars</i> and <i>patni talukdars</i> ; also to establish a process for the sale of such <i>taluks</i> in satisfaction of the <i>zamindar's</i> demand of rent.	The Bengal Patni Taluks Regulation, 1819.
1820	1 [']	For providing that all sales of certain <i>taluks</i> made answerable by sale for arrears by the <i>zamindar's</i> rent shall be conducted in the mode provided by Regulation 8, 1819, for the sales therein described.	The Bengal Patni Taluks Regulation, 1820.

## (The Third Schedule.)

## THE THIRD SCHEDULE—concl'd.

1	2	3	4
Year.	No.	Subject.	Short title.

*Part III.—Regulations of the Bengal Code in force in Assam—concl'd.*

1823	7 [']	For prohibiting loans by Covenanted Civil Servants from persons subject to their official authority and influence.	The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1823.
1825	6 [ ]	For rendering more effectual the rules in force relative to supplies and preparations for troops proceeding through the British territories.	The Bengal Troops Transport Regulation, 1825.
„	11 [']	For declaring the rules to be observed in determining claims to lands gained by alluvion, or by dereliction of a river or the sea.	The Bengal Alluvion and Diluvion Regulation, 1825.
1827	3 [']	For modifying and amending the rules in force relative to the law officers and ministerial native officers of the Courts of judicature, who may be guilty of corruption or extortion.	The Bengal Corruption and Extortion Regulation, 1827.
„	5 [']	For modifying the rules at present in force for the management of estates under attachments by orders of the Courts of Justice in certain cases.	The Bengal Attached Estates Management Regulation, 1827.
1829	17 [']	For declaring the practice of <i>Sati</i> or of burning or burying alive the widows of Hindus illegal and punishable by the Criminal Courts.	The Bengal Sati Regulation, 1829.

ACT 6 OF 1901.  
(THE ASSAM LABOUR AND EMIGRATION ACT, 1901.)

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**THE FIRST SCHEDULE —FORM OF LABOUR CONTRACT BETWEEN LABOURER AND EMPLOYER.**  
**THE SECOND SCHEDULE.—ENACTMENTS REPEALED**

ACT 6 OF 1901.

(THE ASSAM LABOUR AND EMIGRATION ACT, 1901.)<sup>[1]</sup>

(9th March, 1901.)

**An Act to consolidate and amend the law relating to  
Emigration to the Labour-districts of Assam.**

Whereas it is expedient to consolidate and amend the law relating to emigration to the labour-districts of Assam; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title,  
extent and  
commence-  
ment.

1. (1) This Act may be called the Assam Labour and Emigration Act, 1901.

(2) It extends—

(a) to the Provinces of Bengal (including the Sonthal Parganas), the North-Western Provinces, Oudh<sup>[2]</sup> and Assam, the Central Provinces and the District of Ganjam in the Province of Madras, and

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[1] LEGISLATIVE PAPERS.—This Act is an amalgamation of the provisions of two Bills separately introduced in Council—see Report of the Select Committee referred to below. Those Bills were the “ Assam Labour and Emigration Bill ” and the “ Assam Emigrants Health Bill ”.

For Statements of Objects and Reasons, see Gazette of India, 1899, Part V, pp. 105 and 175, respectively; for Report of the Select Committee, on both Bills, which led to their amalgamation, see Gazette of India, 1901, Part V, p. 27; for Proceedings in Council, see *ibid.*, 1899, Part VI, pp. 225 and 234, relating to both Bills, and for Proceedings in Council after their amalgamation, see *ibid.*, 1901, Part VI, pp. 15 and 32.

LOCAL EXTENT.—This Act extends *proprio vigore* to Bengal and certain other Provinces and the district of Ganjam, and may be extended by notification to other parts of British India—see s. 1.

The Act is in force in the Sonthal Parganas; and also in the district of Sambalpur, which was included in the Central Provinces, now in the division of Orissa—see s. 1 (2) (a). Its application however is barred in the Angul District by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 768.

ANNOTATED REPRINT.—For an annotated reprint of this Act, with rules and orders issued thereunder, see the Bengal Inland Emigration Manual, 1912.

OTHER ENACTMENTS.—As to the emigration of Natives of India and their departure by sea out of India, see the Indian Emigration Act, 1922 (7 of 1922), printed in the General Acts, 1921-23, Ed. 1928, p. 41, and the Indian Emigration (Amendment) Act, 1927 (27 of 1927), in General Acts, 1924-27, Ed. 1928, p. 542.

[2] These territories are now called “ the United Provinces of Agra and Oudh ”—see the United Provinces (Designation) Act, 1902 (7 of 1902), in General Acts, 1898-1903, Ed. 1928, p. 222, and the United Provinces General Clauses Act, 1904 (U. P. Act 1 of 1904), s. 29, in the United Provinces Code, 1922, Vol. II, p. 691.

(Sec. 2.)

(b) to such other parts of British India as the Local Government may, [<sup>1</sup>][subject to the control] of the Governor-General in Council, by notification in the local official Gazette, direct.

(3) It shall come into force—

(i) in the territories mentioned in clause (a) of sub-section (2), at once; and

(ii) in any territories to which it may be extended by a notification under clause (b) of the said sub-section, on such day as may be specified in that behalf in the notification.

2. (1) In this Act, unless there is anything repugnant in the subject or context,—

(a) “ agent ” means a garden-*sardar* or other person engaging or assisting any native of India to emigrate under Chapter V :

(b) “ Assistant Inspector ” means an Assistant Inspector of Labourers appointed under this Act :

(c)<sup>[2]</sup> \* \* \* \* \*

[<sup>3</sup>](cc) “ Board ” means the Assam Labour Board constituted under Chapter VI-A :

(d) “ dependant ” includes any woman (not being a labourer), any child and any aged or incapacitated relative or friend accompanying any labourer with the consent of a \* \* \* \* \*<sup>[2]</sup> local agent or garden-*sardar*, or accompanying any emigrant with the consent of an agent :

(e) “ emigrate ” denotes the departure of any native of India (not being a native of a labour-district) of the age of sixteen years or upwards from any part of the territories in which this Act may for the time being be in force, for the purpose of labouring for hire in a labour-district otherwise than as a domestic servant :

[<sup>3</sup>]*Explanation*.—If any such Native of India, having proceeded from a Native State into such territories, departs therefrom for the purpose aforesaid, he shall be deemed to emigrate within the meaning of this definition.

(f) “ employer ” means the chief person for the time being in charge of any estate upon which labourers or more than fifty other persons are employed :

[1] The words in square brackets were substituted for the words “ with the previous sanction ” by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I, *post*, p. 672.

[2] Repealed by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), s. 7 (1), and Sch., *post*, p. 658, and hence omitted.

[3] The clause (cc) and *Explanation* were added by *ibid*, s. 2, clauses (a) and (b), respectively, *post*, p. 657.

## (Sec. 2.)

- (g) "estate" means the land upon which any labourers or more than fifty other persons have been engaged to labour :
- (h) "garden-sardar" means a person employed on an estate and deputed by his employer to engage labourers :
- (i) "Inspector" means an Inspector of Labourers appointed under this Act :
- (j) "labour-contract" means a contract, penally enforceable under this Act, to labour for hire in a labour-district otherwise than as a domestic servant :
- (k) "labour-district" means any of the districts of Lakhimpur, Sibsagar, Nowgong, Darrang, Kamrup, Goalpara, Cachar and Sylhet in the Province of Assam :
- (l) "labourer" means any person bound by a labour-contract, and includes any person registered as such under \* \* [1] section 69 :
- (m) "local agent" means a local agent licensed under this Act ;
- (n) "Magistrate" means a District Magistrate, Sub-divisional Magistrate or other person appointed [2] by the Local Government to perform the functions of a Magistrate under this Act :
- [3] (nn) "native district" in the case of a person who, having proceeded from a Native State into territories in which this Act is in force, emigrates therefrom, includes such Native State.
- (o) \* \* \* \* \* [4]
- (p) "recruiting district" means a district in which this Act is for the time being in force, other than a labour-district :
- (q) "Registering officer" means a Registering-officer appointed under this Act :
- (r) "sign" and "signature" include, in the case of persons unable to write, finger impressions :
- (s) \* \* \* \* \* [4]

[1] Repealed by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), s. 7 (1), and Sch., *post*, p. 658, and hence omitted.

[2] For an order made under s. 2 (n), see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

[3] Clause (nn) was added by the Assam Labour and Emigration (Amendment) Act 1915 (8 of 1915), s. 2, clause (c), *post*, p. 657.

[4] Repealed by *ibid*, s. 7 (1) and Sch., *post*, p. 658.

(Secs. 3-4.)

(t) "Superintendent" means a Superintendent of Emigration appointed under this Act,<sup>[1]</sup> and

(u) "Supervisor" means a supervisor appointed under this Act.

<sup>a</sup> of 1872.

(2) All words defined in the Indian Contract Act, 1872,<sup>[2]</sup> and used in this Act shall be deemed to have the meanings respectively assigned to them by that Act.

3. The Local Government may, with the previous sanction of the Governor-General in Council, by notification <sup>[3]</sup> in the local official Gazette, prohibit all persons from recruiting, engaging, inducing or assisting any native of India, or any specified class of natives of India, to emigrate from the whole or any specified part of the Province to any labour-district or any specified portion of any labour-district, either absolutely or otherwise than in accordance with such of the provisions of this Act as may be specified in the notification :

Local Government may prohibit recruitment, etc., for emigration to any labour district or part thereof either absolutely or otherwise than under certain provisions of Act.

Provided that a notification under this section shall not take effect until the expiry of six months from the date of its publication in the Gazette unless for any special reason the Local Government thinks it necessary to direct that the notification is to take effect at an earlier date.

4. (1) The Local Government may appoint <sup>[4]</sup> so many persons as it thinks necessary to be Superintendents of Emigration, Registering-officers, Embarkation Agents, Debarkation Agents, Inspectors of Labourers, Assistant Inspectors of Labourers and Medical Inspectors, under this Act respectively, and, with respect to any such officer, may, subject to the control of the Governor-General in Council, declare the local area situate in the Province within which he shall exercise the powers and perform the duties conferred and imposed upon him by this Act or any rule thereunder.

Appointment of officers.

45 of 1860.

(2) Every person so appointed shall be deemed to be a public servant within the meaning of the Indian Penal Code.

[1] Clause (u) was added by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), s. 2, clause (d), *post*, p. 657.

[2] Printed in General Acts, 1834-72, Ed. 1928, p. 439.

[3] For a list of notifications issued under s. 3, see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

[4] For orders made under s. 4 (1), see *ibid*.

(Sec. 5.)

## CHAPTER II.

## LABOUR-CONTRACTS GENERALLY.

Essentials of  
labour-  
contracts.

5. (1) Every labour-contract shall be in writing in the form set forth in the first schedule, and shall be executed as hereinafter provided in duplicate on substantial paper.

(2) Every labour-contract shall specify—

- (a) the names of the labourer and his employer;
- (b) the term for which the labourer is to labour;
- (c) the monthly wages in money of the labourer and the price at which rice is to be supplied to him;
- (d) the labour-district in which, and, if the labourer so requests, the estate on which, the labourer is to labour.

(3) No labour-contract shall be made for a term exceeding four years or if the contract is entered into under the provisions of section 118, for a term exceeding one year, commencing from the date of its execution.

(4) No labour-contract shall stipulate for a less rate of monthly wages than—

for the first year, five rupees in the case of a man and four rupees in the case of a woman :

for the second and third years, five rupees eight annas in the case of a man and four rupees eight annas in the case of a woman : and

for the fourth year, six rupees in the case of a man and five rupees in the case of a woman :

Provided that the payment of wages under a labour-contract at the stipulated rate shall during the first six months after the arrival of the labourer in the labour-district where he is first employed be contingent on the completion of half the daily task regulated in accordance with the provisions of this Act, unless an Inspector has certified that the labourer is physically fit to perform the whole of such task :

Provided also that in all other cases the payment of wages at the stipulated rate shall be contingent on the completion of such daily task ;

Provided further that any labour-contract made before the first day of April, 1903, may stipulate for a rate of monthly wages of not

(Secs. 6-10.)

less than five rupees in the case of a man and four rupees in the case of a woman for the second and third years of the term of such contract.

6. No contract made otherwise than in accordance with the provisions of section 5 shall be enforceable under this Act as a labour-contract against the labourer entering into it.

Contracts not enforceable as labour-contracts unless made in accordance with section 5

7. Unless his labour-contract contains a specific obligation to that effect, no labourer shall be bound by it to undertake any work involving underground labour in mines.

In absence of specific obligation, underground labour not obligatory

8. Unless his labour-contract specifies the particular estate on which he is to labour, a labourer shall be deemed to have contracted to labour on any estate in charge of the employer for whom he has contracted to labour, and situate in the labour-district specified in the contract :

Where contract does not specify estate, labourer to be deemed to have contracted to labour on any estate in charge of employer and situate in labour-district.

Provided that no labourer shall, without his consent, be separated from his dependants (if any) or from any other labourer, being his or her wife, husband, son or daughter.

9. Notwithstanding anything to the contrary in the Indian Contract Act, 1872<sup>[1]</sup> any person of the age of sixteen years or upwards may enter into a labour contract .

Persons who may enter into labour-contracts.

Provided that no woman shall be capable of binding herself by a labour-contract if her husband or lawful guardian (if any) objects.

10. (1) Where the Local Government, after such inquiry as it thinks sufficient, is of opinion that any labourer was recruited or conveyed to a labour-district or compelled or induced to enter into a labour-contract, by any coercion, undue influence, fraud or misrepresentation, or that any such irregularity has occurred in connection with his recruitment or the execution of his contract as makes it just to rescind his contract, the Local Government may, by order in writing, direct the labour-contract of the labourer to be cancelled.

Power of Local Government to cancel contract in case of wrongful recruitment.

(2) On receipt of an order made under sub-section (1), the Superintendent, Inspector or Magistrate shall cancel the labour-contract referred to in the order, and shall thereupon make endorsement that it has been so cancelled on the labourer's copy of the labour-contract, or, if that copy is not forthcoming, shall give to the labourer a certificate to the like effect.

[1] Printed in General Acts, 1884-72, Ed. 1928, p. 439.



## (Secs. 11-13.)

Power to  
cancel  
contract of  
labourer  
related to  
labourer  
whose  
contract is  
cancelled.

**11.** Where the labour-contract of a labourer is or has been cancelled under section 10, the Local Government may, in its discretion and on the application of the labourer concerned, cancel the labour-contract of any labourer, being the wife, husband, father, mother, son or daughter of the labourer, whose labour-contract is or has been cancelled, who may have entered into a labour-contract at the same place with the same employer or, in the case of a labour-contract cancelled in the labour-districts, may be employed on any estate belonging to the same owner or under charge of the same employer.

Repatriation  
of labourers  
whose  
contracts  
are can-  
celled.

**12.** (1) Subject to any orders which the Local Government may make in this behalf, the Superintendent, Inspector or Magistrate may detain and send back to his native district any labourer, together with his dependants (if any), whose labour-contract has been cancelled under section 10 or section 11, and may recover the whole or any part of the expenses incurred during such detention or in so sending him back as follows, namely :—

(a) \* \* \* \* \*

(b) in the case of a labourer in a recruiting district, if the labourer has been recruited under Chapter IV, from the employer by whom the certificate of the garden-sardar concerned was granted or from the local agent of the employer; and,

(c) in the case of a labourer in a labour-district, from the employer on whose estate the labourer is under contract to labour, \* \* \* \*

(2 and 3) \* \* \* \*

Escort for  
repatriated  
labourer.

**13.** (1) Where a labourer is sent back to his native district under section 12, the Superintendent, Inspector or Magistrate may provide an escort or make such other arrangements as he may think necessary for ensuring that the labourer is actually conveyed to his native district.

(2) Any expenditure incurred in providing such escort or making such arrangements as aforesaid may be recovered as part of the amount expended in sending the labourer back to his native district.

CHAPTER III.[<sup>2</sup>]

[1] Repealed by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), s. 7 (1), and the sch., *post*, p. 658, and hence omitted.

[2] The whole of Chapter III has been repealed by *ibid*.

(Secs. 56-60.)

# CHAPTER IV.

## RECRUITMENT BY GARDEN-sardars AND LOCAL AGENTS.

### *Garden-sardars.*

**56.** (1) An employer may grant to any garden-sardar a certificate authorizing him, in such local area within the limits of a single recruiting district as may be specified in the certificate, to enter into labour-contracts with persons desirous of becoming labourers upon any estate of which the employer is in charge, and may cancel such certificate at any time.

Employer may grant certificate to garden-sardar.

(2) Where any labourer bound by a labour-contract is granted a certificate under sub-section (1), his employment under the certificate shall be deemed to be employment under his labour-contract.

**57.** (1) Every certificate granted to a garden-sardar under section 56, sub-section (1), shall be in such form and shall contain such particulars as the Chief Commissioner of Assam may prescribe in this behalf.

Form and particulars to be contained in such certificate.

(2) Any employer granting a certificate to a garden-sardar under section 56, sub-section (1), may, before the certificate is accepted and signed as hereinafter provided, specify therein the name of the local agent (if any) to whom the garden-sardar is to report himself for orders, the time within which he is to return to his employer, and such other instructions for his guidance as he may think fit.

**58.** Every certificate granted to a garden-sardar under section 56, sub-section (1), shall be accepted and signed by the garden-sardar in the presence of the Inspector or of a Magistrate having jurisdiction over the place where the employer granting the certificate resides.

Certificate to be accepted and signed in presence of Inspector or Magistrate.

**59.** The Inspector or Magistrate shall inquire into the facts stated in the certificate, and, upon being satisfied of the truth of the facts so stated, shall, unless it appears to him that the person so accepting and signing the certificate is not employed on an estate of which the person granting the certificate is in charge, or is, by character or from any other cause, unfitted to be a garden-sardar, countersign and date the certificate.

Inspector's or Magistrate's counter-signature of certificate.

**60.** (1) On the application of the employer by whom any certificate so countersigned has been granted to a garden-sardar, the Inspector or Magistrate may, without requiring the appearance of the garden-sardar or making the inquiry prescribed by section 59, countersign a fresh certificate to be granted by the employer to the garden-sardar in renewal of any existing certificate.

Provision for grant of fresh certificate.

(Secs. 61-63.)

(2) Every fresh certificate granted under sub-section (1) shall be forwarded by the Inspector or Magistrate countersigning it to the District Magistrate of the District in which the garden-sardar to whom it is granted is employed; and the garden-sardar shall, on receiving notice from such District Magistrate as aforesaid, appear before him or any Magistrate specified in the notice and accept and sign the fresh certificate in his presence.

Certificate when to come into force, and duration thereof.

**61.** No certificate granted to a garden-sardar under this Chapter shall come into force unless and until it has been accepted and signed by the garden-sardar and countersigned by the Inspector or Magistrate having jurisdiction over the place where the employer granting the certificate resides, and also by the District Magistrate of the district in which the garden-sardar is authorized by the certificate to enter into labour-contracts, and no certificate so granted shall continue in force for a longer period than one year from the date of its countersignature by the said Inspector or Magistrate.

Accommodation to be provided by garden-sardar.

**62.** (1) Every garden-sardar shall provide sufficient and proper accommodation in a suitable place for such labourers or persons intending to become labourers, as may be collected by him pending their removal to a labour-district.

(2) The District or Sub-divisional Magistrate shall visit and inspect the accommodation so provided; and every garden-sardar or other person in charge of a place in which accommodation is so provided shall afford to such Magistrate every facility for visiting and inspecting it.

(3) The District or Sub-divisional Magistrate may delegate the duty imposed on him by sub-section (2) to a Subordinate Magistrate or to an officer of police above the rank of sub-inspector.

(4) In every such place as aforesaid the garden-sardar providing the accommodation shall make such sanitary arrangements as the Local Government may prescribe.

Cancellation of certificate in certain cases

**63.** (1) Where a garden-sardar commits a breach of any of the provisions of this Act or the rules thereunder, the Inspector or Magistrate who countersigned his certificate, or the District Magistrate who countersigned the certificate under section 61, or the Superintendent within whose jurisdiction the garden-sardar is employed, may cancel the certificate.

(2) Whenever one of the officers aforesaid cancels a certificate, he shall give notice of the fact to the other officers mentioned in sub-section (1) and to the employer of the garden-sardar; and whenever such a certificate is cancelled by the employer, notice of the fact shall be given by him to the officers aforesaid.

(Secs. 64-67.)

(3) When the certificate of a garden-sardar is cancelled under this section, any labourers or other persons of whom he is in charge may be forwarded to their destination under the care of any person appointed by the employer for that purpose and approved by the Superintendent.

*Local Agents.*

**64.** [1](1) The Local Government may authorize any Superintendent to grant licenses to suitable persons to be local agents, for the purpose of representing employers within a specified area and for a specified period, in all matters connected with the supervision of garden-sardars under this Act. Licensing and duties of local agents.

(2) Any employer, or, on behalf of an employer, any association or firm duly authorized by general or special order of the [Local Government][2] for the purpose of this clause, may apply for a license as aforesaid, to be granted to a specified person.

(3) Every such application shall be made to the Board, and the Board shall forward it with its recommendation to the Superintendent, who may thereupon, if he thinks fit, grant a license to such person.

(4) [3] A local agent shall furnish such information and make such returns as the Local Government may, by rule, prescribe.

**65.** (*Selecting agent.*) *Repealed by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), section 7(1) and the Schedule.* Selecting agent.

**66.** Where any garden-sardar to whom a certificate has been granted under this Chapter by an employer commits any offence punishable under this Act, any local agent of the employer may prosecute the garden-sardar for that offence. Prosecution of garden-sardars by local agents.

**67.** (1) The District Magistrate of any district within which a local agent acts as such may, by order in writing, cancel the license of the local agent if[4] [his employer or the association or firm which has applied in respect of such local agent under section 64, sub-section (2)] so requires, [4][or if the District Magistrate is satisfied that the conduct of the local agent has been such as to render him unsuitable to hold a license.] Cancellation of licenses of local agents.

[1] Sub-sections (1), (2) and (3) were substituted for the original sub-section (1) by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), s. 3, *post*, p. 657.

[2] The words in square brackets were substituted for the words "Governor General in Council" by the Devolution Act, 1920 (38 of 1920), s. 2 and sch. I, *post*, p. 672.

[3] This was sub-section (2) in the original Act.

It was re-numbered in consequence of the amendment referred to in footnote [1].

[4] Substituted for the original by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), s. 4, *post*, p. 658.

(Secs. 68-70.)

(2) A local agent may, within three months next after the date of any order of a District Magistrate cancelling his license under subsection (1), appeal against the order to the Local Government, and the decision of the Local Government thereon shall be final.

*Procedure to be followed by Garden-sardars.*

Garden-sardar and labourer to appear before Registering-officer for registration.

**68.** Every garden-sardar who desires to engage any person as a labourer shall appear with the person, together with any others about to proceed to a labour-district as his dependants, before the Registering-officer having jurisdiction within the local area specified in the certificate of the garden-sardar or before such other Registering-officer as the Local Government may appoint<sup>[1]</sup> for that local area.

Examination and registration of persons engaged by garden-sardar.

**69.** (1) The Registering-officer shall thereupon inspect the certificate of the garden-sardar, and if he finds that the certificate is in force, shall examine, with reference to the intended labour-contract, the person brought before him under section 68 whom it is desired to engage as a labourer, and explain the intended labour-contract to him.

(2) Where it appears that the person so brought before the Registering-officer is competent to enter into the intended labour contract and understands the nature of the same as regards the locality, period and nature of the service, and the rate of wages and the price at which rice is to be supplied to him, that the terms thereof are in accordance with law, that he has not been induced to agree to enter thereinto by any coercion, undue influence, fraud, misrepresentation or mistake, and that he is willing to fulfil the same, the Registering-officer shall register, in a book to be kept for the purpose, such particulars regarding him and his dependants (if any) as the Local Government may, by rule, prescribe; and the labourer and his dependants (if any) shall thereupon be deemed to be registered under this Act.

Medical examination.

**70.** (1) Where it appears to the Registering-officer that any person brought before him under section 68 is not in a fit state of health to undertake the journey to the labour-district to which he intends to proceed, or, in the case of a labourer, that he is incapacitated, by reason of any obvious bodily defect or infirmity, for labour in the labour-districts, the Registering-officer may, before registering him under section 69, sub-section (2), if himself a medical man, medically examine him, or, if not himself a medical man, send him to a medical man for medical examination.

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[1] For an order made under s. 68, see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

(Secs. 71-73.)

(2) If upon medical examination any person so brought before a Registering-officer is declared unfit to undertake the journey to the labour-district or, in the case of a labourer, incapacitated, by reason of any obvious bodily defect or infirmity for labour in the labour-districts, the Registering-officer may refuse to register him.

71. For every person brought before a Registering-officer under section 68 for the purpose of being registered as a labourer, the garden-sardar who appears with him shall pay to the Registering-officer such fee, not exceeding one rupee, as the Local Government may direct.

Fee to be paid for every labourer produced for registration Labour-contract to be executed.

72. (1) Where a person has been registered under section 69, sub-section (2), he shall, within fifteen days after the date on which he was so registered, execute a labour-contract with the employer with whom he intends to contract.

(2) The labour-contract shall be signed in the presence of the Registering-officer by the person so registered and, on behalf of the employer, by the garden-sardar who appears with him before the Registering-officer. The Registering-officer shall satisfy himself that labour-contract is in accordance with any instructions specified in the certificate of the garden-sardar; and, if he is so satisfied, shall, before the labourer signs the labour-contract, personally explain it to him and, after it has been executed as aforesaid, attest it, and certify at the foot thereof that he has personally explained it to the labourer.

(3) An abstract of every labour-contract executed under this section shall be entered in a register to be kept for the purpose by the Registering-officer, and a copy thereof shall then be given to the labourer and a copy to the garden-sardar or local agent.

(4) Where any garden-sardar, without reasonable cause, refuses or neglects to execute a labour-contract with a labourer as required by sub-section (2) within fifteen days after the date on which the labourer was registered under section 69, sub-section (2), the Registering-officer may order the garden-sardar to pay to the labourer such reasonable compensation, not exceeding twenty rupees, as the Registering-officer may think fit.

73. Where the employer of a garden-sardar has, in the instructions specified in the certificate of the garden-sardar, directed that every labourer engaged by him shall before registration be examined by a competent medical man and certified by him to be in a fit state of health to undertake the journey to the labour-district to which he intends to proceed, and physically and constitutionally fit for labour in the labour-districts, no Registering-officer shall register as a labourer any

Procedure when employer requires medical examination previous to registration.

## (Secs. 74-79.)

person appearing before him with the garden-*sardar* until such medical certificate as aforesaid has been produced and shown to him.

Fee of medical officer when in Government service for examination under section 73.

**74.** Where the employer of a garden-*sardar* has, in the instructions specified in the certificate of the garden-*sardar*, directed that the examination referred to in section 73 shall be made by a medical officer in the service of the Government, such officer as aforesaid making the examination shall be entitled to receive from the local agent or garden-*sardar* such fee, for each labourer so examined, as may be agreed upon, and, if no agreement has been entered into, such fee as the Local Government, by general or special order, may direct.

Garden-*sardar* when to remove labourer to labour-district.

**75.** Unless and until a person whom it is desired to engage as a labourer under this Chapter has executed a labour-contract under section 72 no garden-*sardar* shall remove or attempt to remove him to a labour-district, or induce or attempt to induce him to go to a labour-district, or to leave the local area or aid or attempt to aid him in proceeding to a labour-district.

Garden-*sardar* to accompany labourers or send competent person with them.

**76.** (1) A garden-*sardar* shall either himself accompany labourers engaged by him throughout the journey from the place in which the labour-contract was entered into, to the labour-district wherein they have contracted to labour, or shall send with them some competent person appointed by him with the approval of the local agent of his employer, or, if his employer has no local agent, with the approval of the officer by whom the labourers were registered.

(2) When the number of labourers (exclusive of dependants) proceeding on their journey to a labour-district is more than twenty, for every twenty labourers so in excess, or for any number of labourers less than twenty so in excess, one additional garden-*sardar* or person so appointed by him shall accompany the labourers so proceeding.

No restriction on number of persons engaged by garden-*sardar*.

**77.** A garden-*sardar* may, subject to the instructions specified in his certificate, engage any number of persons as labourers; and, subject to the provisions of section 76, any number of labourers may be despatched at the same time to the labour-districts.

Appointment in certain cases of garden-*sardar* to accompany labourers not engaged by him. Provision for way-bill.

**78.** A garden-*sardar* may, with the previous consent in writing of the local agent of the employer by whom his certificate was granted, or, if the employer has no local agent, with the previous consent in writing of the employer, be appointed under section 76 as a competent person to accompany labourers other than those engaged by him.

**79.** (1) Every garden-*sardar* or person appointed by him as aforesaid who accompanies labourers to the labour-districts shall present

(Secs 80-83.)

to the officer before whom the labourers have executed a contract under section 72 a way-bill in such form and containing such particulars and instructions as the Local Government may prescribe

(2) Every such garden-sardar or other person as aforesaid shall also present the way-bill at all such places and to all such officers as may be thereupon indicated, and shall carry out all instructions therein contained for his guidance.

**80.** Every garden-sardar or person appointed by him as aforesaid who accompanies labourers to the labour-districts shall provide the labourers and their dependants (if any) with proper and sufficient food and lodging throughout the journey.

Garden-sardar to provide food and lodging for labourers and dependants on journey.

**81.** Where it appears to any Magistrate, on the complaint of a labourer at any place on the journey, that the labourer or any person registered as his dependant has suffered ill-treatment during the journey at the hands of the garden-sardar or person appointed by the garden-sardar accompanying the labourer or that the garden-sardar or person so appointed has failed to provide the labourer or any of his dependants with proper and sufficient food and lodging, or has wilfully abandoned the labourer or any of his dependants, the Magistrate may either order the garden-sardar or person so appointed to pay to the labourer a reasonable sum by way of compensation, or may cancel the labour-contract entered into by the labourer and order the garden-sardar or person so appointed to pay to the labourer such reasonable sum as the Magistrate may think necessary to enable him with his dependants (if any) to return to the place at which he was registered, or to his native district, as to the Magistrate may seem fit.

Power for Magistrate in certain cases to award compensation or cancel contract.

**82.** On the failure for the space of twenty-four hours of any garden-sardar or person appointed by him as aforesaid to comply with an order made under section 81 to pay any sum, the Magistrate may pay the same to or on behalf of the labourer concerned, and may recover it from the employer by whom the certificate of the garden-sardar was granted, or from the local agent of the employer.

Procedure on failure of garden-sardar to comply with order

**83.** Any Magistrate or Embarkation Agent may, if himself a medical man, medically examine, and, if not himself a medical man, send for medical examination by a medical man, any labourer or dependant who, while on the journey to the district to which he intends to proceed, appears to the Magistrate or Embarkation Agent, as the case may be, not to be in a fit state of health to proceed thereto.

Medical inspection of labourers en route.



(Secs. 84-85.)

Detention  
and return  
of labourer  
declared  
when en  
route to be  
unfit to  
travel.

**84.** (1) Where any labourer or dependant is, on examination under section 83, declared not to be in a fit state of health to undertake the journey to the labour-district to which he intends to proceed, the Magistrate or Embarkation Agent may order the labourer or dependant to be detained at such place as he may think proper until in a fit state of health to undertake the journey.

(2) In any such case as is provided for by sub-section (1), the labourer or dependant, when in a fit state of health to undertake the journey, shall, if the garden-sardar or person appointed by the garden-sardar accompanying him, or the employer by whom the certificate of the garden-sardar was granted, or his local agent, so wishes, be forwarded to the labour-district, or, if otherwise, to his native district or the place where he was registered as to the Magistrate or Embarkation Agent may seem fit.

(3) While any labourer or dependant is detained under sub-section (1), he shall be entitled to be fed, lodged, clothed and (if necessary) medically treated at the expense of the employer with whom the labourer, or the labourer to whom the dependant is attached, has contracted to labour.

Dependants  
of labourer  
when to be  
fed, etc.

**85.** (1) Where an order under section 84 has been made with reference to any labourer, any person registered as his dependant, and any other labourer being his or her wife or husband, shall be entitled,—

(a) until the labourer is in a fit state of health to undertake the journey to be fed, lodged, clothed, and (if necessary) medically treated at the place where the labourer is detained, and at the cost of the employer with whom the labourer has contracted to labour; and

(b) to be sent back to the same place (if any) as the labourer.

(2) Where an order has been made under sub-section (1) with reference to any dependant, the labourer to whom the dependant is attached shall thereupon, until the dependant is in a fit state of health to undertake the journey to the labour-district, be entitled, if the labourer so wishes, and if he or she is the husband, wife, son or daughter of the dependant, to be fed, lodged, clothed and (if necessary) medically treated at the place where the dependant is detained and at the cost of the employer with whom the labourer has contracted to labour; and the labourer shall, if he or she so wishes and if he or she is the husband, wife, son or daughter of the dependant, be sent back to the same place (if any) as the dependant.

(3) Where a labourer is entitled and claims to be so fed, lodged, clothed and (if necessary) medically treated or to be so sent back, any

(Secs. 86-88.)

person registered as his or her dependant, and any other labourer, being the wife or husband of the labourer, shall be entitled, as the case may be,—

(a) to be fed, lodged, clothed and (if necessary) medically treated at the place where the dependant is detained and, at the cost of the employer, until the dependant is in a fit state of health to undertake the journey to the labour-district, or

(b) to be sent back to the same place as the labourer.

**86.** Where a garden-sardar or person appointed by a garden-sardar accompanying any labourer or dependant fails to provide the labourer or dependant with food, lodging, clothing and medical treatment, or to send him back as required by section 84 or section 85, the Magistrate or Embarkation Agent may order the garden-sardar or person so appointed to pay such sum as the Magistrate or Embarkation Agent, as the case may be, may think necessary to provide food, lodging, clothing and medical treatment, or to defray the cost of the return-journey of the labourer or dependant; and, on failure for the space of twenty-four hours of the garden-sardar or person so appointed to comply with the order, the Magistrate or Embarkation Agent, as the case may be, may pay the sum specified in the order to or on behalf of the labourer or dependant concerned, and may recover it from the employer by whom the certificate of the garden-sardar was granted, or from the local agent of the employer.

Payment of expenses of detention and return-journey of labourer.

**87.** (1) Where a labour-contract has been executed by a garden-sardar on behalf of his employer, any local agent or other representative of the employer may require the labourer to appear before the Superintendent for the cancellation of his labour-contract.

Representative of employer may procure order from Superintendent

(2) If, when the labourer appears under sub-section (1), such reasonable sum as the Superintendent may think necessary to enable the labourer and his dependants (if any) to return to the native district of the labourer or to the place at which he was registered, as to the Superintendent may seem fit, and such further sum (if any) by way of compensation as the Superintendent may think reasonable, are paid to the labourer in his presence, the Superintendent may declare the labour-contract cancelled, and, in that event, shall make an endorsement to the like effect on the labourer's copy of the labour-contract, and attest the endorsement with his signature.

cancelling the labour-contract on payment of expense of return.

**88.** (1) Where the Superintendent declares the labour-contract of any labourer to be cancelled, any other labourer who is the wife, husband, father, mother, son or daughter of the labourer and has entered

Cancellation of contracts of relatives.

(Secs. 89-91.)

into a labour-contract at the same place with the same employer, may claim to have her or his labour-contract cancelled at the same time.

(2) Where a claim is made under sub-section (1), the Superintendent shall declare the labour-contract or the claimant to be cancelled, and shall order the local agent or representative of the claimant's employer to pay to the claimant such reasonable sum as the Superintendent may think necessary to enable him and his dependants (if any) to return to the same place as the labourer.

(3) On the failure for the space of twenty-four hours of the local agent or representative to comply with an order made under sub-section (2), the Superintendent may pay the sum specified in the order to or on behalf of the claimant concerned and may recover the same from the employer by whom the certificate of the garden-sardar was granted, or from the local agent or representative who appears on behalf of the employer.

Cost of  
escort for  
repatriated  
labourer.

**89.** When an order is made under sections 81, 86 or 88 for payment of the costs of the return-journey of any labourer or other person, the Magistrate may order the garden-sardar or other person liable in respect of such costs to pay also the cost of providing such escort to accompany the labourer or other person during his return journey as the Magistrate may think necessary.

## CHAPTER V.

### ENGAGEMENT OF EMIGRANTS OTHERWISE THAN UNDER

#### CHAPTER \* \* \*<sup>[1]</sup> IV.

**90.** (Special provisions as to engagement of emigrants through garden-sardars.) Repealed by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), section 6.

Power to  
Local Gov-  
ernment to  
relax cer-  
tain provi-  
sions of  
Act.

<sup>[2]</sup>**91.** \* \* \* \* \*<sup>[3]</sup>  
the Local Government may, by notification<sup>[4]</sup> in the local official Gazette, declare that—

(a) \* \* \* \* \*<sup>[5]</sup>

[1] "Chapter IV" was substituted for the original words and figures, "Chapters III and IV" by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), s. 7 (2) (i), *post*, p. 658.

[2] This section was substituted for the original s. 91 by the Assam Labour and Emigration (Amendment) Act, 1908 (11 of 1908), s. 2, *post*, p. 641.

[3] Words and figures repealed by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), s. 6, *post*, p. 658, are omitted.

[4] For a list of notifications issued under s. 91, see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

[5] This clause was repealed by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), s. 7 (1), and the sch., *post*, p. 658.

(Secs. 92-93.)

(b) in the case of garden-sardars holding certificates granted under Chapter IV \* \* \* \*<sup>[1]</sup> any of the requirements of that Chapter \* \* \* \*<sup>[1]</sup>, as the case may be,

may be dispensed with or relaxed on such conditions as may be prescribed in the notification.

**92.** Subject to the provisions of section 3 and of any notification issued thereunder, nothing in this Act shall be deemed to prohibit any person from engaging or assisting natives of India to emigrate to a labour-district otherwise than in accordance with the provisions of Chapter IV, <sup>[2]</sup> and of \* \* \*<sup>[3]</sup> section 91.

Saving of engagement of emigrants otherwise than under foregoing provisions of Act.

**93.** (1) The following provisions of this Act shall apply to the transport and employment of persons engaged or assisted to emigrate under this Chapter and not bound by labour-contracts, namely :—

Application of Act to persons engaged under this Chapter.

(a) in CHAPTER VI (TRANSPORT) :—

- (i) sections 94 and 95 (routes and transport by sea) ;
- (ii) sections 96 to 99 (passenger licenses) ;
- (iii) sections 100 and 101 (Embarkation Agent's powers and returns by master) ;
- (iv) section 103 (medical officer) ;
- (v) section 104 (delay in departure) ;
- (vi) sections 107 to 110 (Magistrates' powers) ;
- (vii) section 112 (disinfection) ;
- (viii) section 113 (excess passengers) ;
- (ix) section 114 (breaches of Act and rules) ; and
- (x) section 116 (delegation of magisterial powers) ;

(b) in CHAPTER VII (LABOUR-DISTRICTS) :—

- (i) section 122 (registers and returns) ;
- (ii) section 123 (inspection) ; and
- (iii) sections 159, 161 and 162 (repatriation) ;

[1] Words and figures repealed by the Assam Labour and Emigration (Amendment) Act, 1915, (8 of 1915), s. 6, *post*, p. 658, are omitted.

[2] "Chapter IV" was substituted for the original words and figures, "Chapters III and IV" by *ibid*, s. (2) (i), *post*, p. 657.

[3] "Section 91" was substituted for the original words and figures, "sections 90 and 91", by *ibid*, s. 6 (2), *post*, p. 658.

(Secs. 94-95.)

(c) in CHAPTER VIII (RULES) :—

all powers conferred by section 163, except in so far as the same relate exclusively to labourers and their dependants;

(d) in CHAPTER IX (PENALTIES AND PROCEDURE) :—

(i) sections 176, 177, 181, 182 and 183 (offences connected with transport by river); and

(ii) sections 185 and 186 (offences by employers); and

(e) in CHAPTER X (MISCELLANEOUS) :—

(i) section 215 (recovery of sums due); and

(ii) sections 218 to 223 (fines, etc., Assistant Inspector, officers' powers, exemption, prior notifications and repeal).

(2) Except as indicated in sub-section (1) nothing in [Chapter II or IV]<sup>[1]</sup> or in [Chapters VI (except Chapter VI-A) to X]<sup>[2]</sup> inclusive shall apply to persons engaged or assisted to emigrate under this Chapter and not bound by labour-contracts.

## CHAPTER VI.

## TRANSPORT.

*Routes, etc.*

Routes to be followed and rules observed.

94. Every person who forwards or accompanies labourers or emigrants under Chapter V or their dependants to a labour-district shall forward or take them by the prescribed route, or one of the prescribed routes, and shall conform to the rules made under this Act, in so far as the said rules apply to himself and to the persons emigrating under his charge.

*Transport by River.*

Transport by sea to labour-districts.

95. Nothing in this Chapter shall apply to the transport by sea of natives of India to the labour-districts.

[1] The words and figures "Chapter II or IV" were substituted for the original words, "Chapters II to IV inclusive," by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), s. 7 (2) (ii), *post*, p. 658.

[2] The words and figures "Chapters VI (except Chapter VI-A) to X" were substituted for the original words and figures "Chapters VI to X" by *ibid.*

(Secs. 96-100.)

**96.** (1) No master shall receive more than twenty passengers, being natives of India, on board his vessel for the purpose of transporting them to a labour-district, unless a license to carry passengers in his vessel has been granted to him under this Chapter by an Embarkation Agent duly empowered in that behalf by the Local Government.

Vessels to carry more than twenty passengers to be ordinarily licensed.

(2) The Local Government may, by notification in the local official Gazette, exempt from the provisions of this section any vessel or class of vessels.

**97.** (1) The master or owner of any vessel who desires to obtain a license under this Chapter to carry passengers in his vessel shall make a written application for a license to an Embarkation agent empowered as aforesaid.

Application for license.

(2) Every application made under sub-section (1) shall state such particulars respecting the vessel as the Local Government may, by rule, prescribe.

**98.** Where the Embarkation Agent to whom an application is made under section 97, sub-section (1), is of opinion that the vessel is in all respects suitable for carrying passengers being natives of India to a labour-district, he shall give to the master of the vessel a license to carry passengers therein, specifying the number of passengers, being natives of India, who may be received on board.

Grant of license.

**99.** Such fee, not exceeding sixteen rupees, as the Local Government may, with reference to the size of the vessel, by rule, direct, shall be paid for every license granted under section 98, and no license so granted shall be in force for more than one voyage :

Fee for license.

Provided that a license may, with the previous sanction of the Local Government, be granted under the said section to the master of any vessel for any term not exceeding one year, on payment of such fee, not exceeding one hundred rupees, and on such conditions, as the Local Government may, by rule, prescribe.

**100.** (1) Any Embarkation Agent may, in accordance with such rules as the Local Government may make in this behalf, direct, by order in writing, that on any particular voyage or part of a voyage, any master licensed under this Chapter shall not receive on board his vessel more than a specified number of passengers, being natives of India, which number shall be less than the number specified in the license granted to the master.

Embarkation Agent may limit number to be received on board on any particular voyage.

(2) In computing the number of persons on board a vessel, two children under the age of ten years shall, for the purposes of this Chapter, be reckoned as one person only.

## (Secs. 101-106.)

Master to  
make  
returns

**101.** Every master licensed under this Chapter shall keep such lists, submit such returns, and make such reports in regard to the passengers carried in his vessel, as the Local Government may, by rule, prescribe.

Provisions,  
clothing,  
medical  
and other  
officers,  
cooks, etc.

**102.** Every master licensed under this Chapter shall have on board his vessel carrying labourers and their dependants such supplies of provisions and clothing, and such medical and other officers, cooks and attendants, as the Local Government may, by rule, prescribe.

Medical  
officer to be  
licensed.

**103.** No medical officer shall be appointed to any vessel in respect of which a license is granted under this Chapter, unless he holds a license granted by such authority as the Local Government may appoint in that behalf; and any medical officer so licensed shall be forthwith removed from his appointment on the requisition of any officer empowered by the Local Government to make such a requisition.

*Departure of Passenger-vessels and procedure during voyage.*

Embarka-  
tion Agent  
may order  
departure  
of vessel  
if delay  
occurs.

**104.** Where it appears to an Embarkation Agent that the departure of a vessel in respect of which a license is granted under this Chapter is unduly delayed beyond the date fixed by the order of a Superintendent or of the Local Government, or notified by advertisement in the public press, for such departure, he may order the master of the vessel to proceed on his voyage at once.

Master to  
receive  
way bills  
from  
Embarka-  
tion Agent.

**105.** (1) No master licensed under this Chapter shall proceed on a voyage with his vessel carrying labourers until he has received from the Embarkation Agent the way-bills relating to all labourers on board in respect of whom way-bills are required by this Act or by the rules made thereunder.

(2) The Embarkation Agent and the master of the vessel shall together personally ascertain that the number of such labourers on board corresponds with the number entered in the way-bill.

(3) The Embarkation Agent shall send a copy of every way-bill granted under sub-section (1) to the Magistrate of the labour-district to which such labourers are proceeding.

Labourers  
not finally  
to leave  
vessel at  
any place  
other than  
that men-  
tioned in  
way-bill.

**106.** No master licensed under this Chapter shall cause or permit any labourer entered in any such way-bill finally to leave his vessel at any place other than that named in the way-bill as the destination of the labourer :

Provided that nothing in this section shall be deemed to prevent the master of a vessel from permitting such labourers to disembark at any place on the voyage so long as the disembarkation is not intended, or known to be likely, to be final, nor to prevent the final disembarkation

(Secs. 107-110.)

of any such labourers or the transfer of such labourers with their dependants to another vessel in case of accident or unavoidable necessity.

Provided also that every such accident or necessity as aforesaid shall forthwith be reported by the master to the Embarkation Agent by whom he was licensed, and to the nearest Magistrate in the district within which the accident has occurred or the necessity has arisen.

**107.** (1) Every master licensed under this Chapter shall stop his vessel carrying passengers, being natives of India, at such places, being places where a Magistrate is stationed, and shall, unless the Magistrate permits him to depart earlier, remain at each such place for such time, not exceeding six hours of daylight, as the local Government may direct.

Master to stop his vessel at certain places where there is a Magistrate

(2) The master shall, on arriving at such a place as aforesaid, immediately report to the Magistrate the number of the crew and other persons on board, the general state of their health, and the number of deaths (if any) which have occurred among the persons who embarked on board his vessel.

**108.** (1) Any Magistrate may, while a vessel in respect of which a license is granted under this Chapter is within the local limits of his jurisdiction, go on board the vessel and inspect it and all persons, being natives of India, on board.

Power for Magistrates to inspect vessels.

(2) The master and officers of any such vessel as aforesaid shall afford to the Magistrate every facility for inspection, and give him all such information as he may reasonably require respecting the labourers or other persons on board, the deaths (if any) which have occurred on board, and any other facts affecting the health of the passengers.

**109.** Any Magistrate may, while a vessel in respect of which a license is granted under this Chapter is within the local limits of his jurisdiction, regulate the communication between the vessel and the land, and prohibit all persons from leaving the vessel, and all persons on land from proceeding on board.

Power for Magistrates to regulate communication between vessels and land.

**110.** (1) Any Magistrate may, if he has reason to believe that any passengers, being natives of India, on board a vessel within the local limits of his jurisdiction, in respect of which a license is granted under this Chapter, are, or are likely to be, affected with any dangerously infectious or contagious disease, detain the vessel and depute the civil medical officer of the district or any other qualified medical officer to inspect such passengers as aforesaid and to report on their health, stating whether any or what measures are requisite for the removal or prevention of the dangerously infectious or contagious disease.

Power for Magistrates to detain vessels for inspection and to detain sick native passengers,



*(Secs. 111-114.)*

(2) On receiving the report of the medical officer so deputed, the Magistrate may order any such passenger as aforesaid who is suffering from any dangerously infectious or contagious disease to be disembarked and detained for medical treatment.

Detention of  
sick labour-  
ers by  
Magistrate.

**111.** (1) Where, on receiving the report of a medical officer deputed under section 110, sub-section (1), it appears to a Magistrate that a labourer or any dependant of any such labourer, though not suffering from a dangerously infectious or contagious disease, is not in a fit state of health to proceed to the labour district in which the labourer has contracted to labour, he may order the labourer or dependant to be detained, and shall cause all necessary arrangements to be made for his accommodation, support and medical treatment.

(2) Any expenditure incurred under sub-section (1) may be recovered from the employer of the labourer concerned.

Power for  
Magistrate  
to detain  
vessel to be  
cleansed  
and disin-  
fected.

**112.** (1) Where, in the opinion of a medical officer deputed under section 110, sub-section (1), it is dangerous to the health of the general body of the passengers to allow the vessel to proceed until measures have been taken to cleanse and disinfect her, the Magistrate may detain the vessel for a further period, not exceeding three days, for the purpose of carrying out those measures.

(2) Any expenditure incurred under sub-section (1) may be recovered from the master or owner of the vessel.

Measures to  
be taken if  
excess  
number  
of native  
passengers  
is found on  
board.

**113.** (1) Where it appears to a Magistrate making an inspection of a vessel, in respect of which a license is granted under this Chapter, that the number of passengers on board, being natives of India, is larger than the number specified in the license or than the number specified in an order of an Embarkation Agent made under section 100, he may remove the excess number and detain them until another opportunity of forwarding them to their destination is found.

(2) Any expenditure incurred in maintaining passengers detained under sub-section (1) and in forwarding them to their destination may be recovered from the master or owner of the vessel.

Infraction of  
the Act and  
rules to be  
reported.

**114.** Where it appears to a Magistrate making an inspection of a vessel in respect of which a license is granted under this Chapter, that any of the provisions of this Act or of any rule thereunder have not been complied with in respect of the vessel, he shall report the fact to the Embarkation Agent by whom the license was granted; and, if he considers it necessary to do so, he may detain the vessel until such provisions as aforesaid have been so complied with as to make it possible for the voyage to be further prosecuted with safety and reasonable comfort to the emigrants.

(Secs. 115-116A.)

**115.** (1) The Local Government may make rules to regulate—

Power to make rules regulating disembarkation and other matters.

(a) the disembarkation of labourers and their dependants, and their inspection and accommodation on arrival at their destinations;

(b) the detention of labourers and their dependants at debarkation depôts;

(c) the forwarding of labourers to their destinations and the closing and return of way-bills by employers.

(2) Any expenditure incurred in pursuance of any rules made under sub-section (1) may be recovered from the employers of the labourers concerned.

**116.** The District or Subdivisional Magistrate may authorize any subordinate Magistrate, medical officer, or officer of police above the rank of sub-inspector, to exercise the powers and authorities conferred and to perform the duties imposed on a Magistrate under sections 107 to 114.

Deputation of other officer to discharge the functions of Magistrate under sections 107 to 114

## CHAPTER VI-A.<sup>[1]</sup>

### ASSAM LABOUR BOARD.

**116-A.** (1) There shall be a Board, to be called the Assam Labour Board, for the supervision of Local Agents, and of the recruitment, engagement and emigration to labour districts of natives of India under this Act.

Constitution of Assam Labour Board.

(2) The Assam Labour Board shall be a body corporate, and have perpetual succession and a common seal, and may by that name sue and be sued.

(3) The Assam Labour Board (hereinafter called the Board) shall consist of sixteen members, including the Chairman, who shall be an officer in the service of Government, to be appointed by the Governor General in Council by notification in the *Gazette of India*. The remaining members shall be elected by the following bodies, namely:—

(a) eight by the Indian Tea Association, Calcutta, as representatives of that Association and of the Indian Tea Association, London;

[1] Inserted by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), s. 5, *post*, p. 658.

(Secs. 116B-116C.)

(b) four by the Assam Branch, Indian Tea Association; and

(c) three by the Surma Valley Branch, Indian Tea Association.

(4) The election shall be made in such manner as may be determined by the electing bodies, subject to the approval of the Governor General in Council, and the name of every person so elected shall be published in the *Gazette of India*.

(5) If within the period prescribed by rules made under this Chapter any of the aforesaid bodies fails to elect representatives or to elect the full number of representatives to which it is entitled, the Governor General in Council may nominate persons to be members of the Board as representatives of the said bodies.

(6) There shall be an Executive Committee of the Board, with such powers and duties as may be conferred on it by rules made under this Chapter. It shall consist of five members, of whom one shall be the Chairman of the Board and the remaining four shall be elected in the manner prescribed by such rules, as representatives of the following bodies, namely :—

(a) one of the Indian Tea Association, Calcutta;

(b) one of the Indian Tea Association, London;

(c) one of the Assam Branch, Indian Tea Association; and

(d) one of the Surma Valley Branch, Indian Tea Association.

(7) No act done by the Board or by the Executive Committee shall be questioned on the ground merely of the existence of any vacancy in or any defect in the constitution of the Board or of the Executive Committee, as the case may be.

Salary of  
Chairman.

**116-B.** (1) The Governor General in Council may fix the salary of the Chairman of the Board.

(2) Such salary shall be paid in such proportions by the Governor General in Council and the Board, as the Governor General in Council may from time to time determine.

Appointment  
and func-  
tions of  
Supervisors.

**116-C.** (1) The Board may appoint so many persons as it thinks necessary to be Supervisors, with such powers and duties in respect of the supervision of Local Agents and the other matters mentioned in section 116-A (1) as may be conferred and imposed on them by rules made under this Chapter.

(2) Subject to the control of the Governor General in Council, the Board may fix the salary to be paid to Supervisors.

(Secs. 116D-116E.)

(3) The Local Government may, subject to the control of the Governor General in Council, declare the local area in the Province within which Supervisors shall exercise the powers and perform the duties conferred and imposed upon them by rule under this Chapter.

45 of 1860. (4) Every Supervisor shall be deemed to be a public servant within the meaning of the Indian Penal Code.

**116-D.** (1) Whenever the Board has reason to believe that the conduct of a Local Agent has been such as to detract from his suitability to hold a license it may call on him to produce his license, and after hearing any cause that he may have to show to the contrary, may make such endorsement thereon as it thinks fit. A copy of every such endorsement shall be sent to the Superintendent of Emigration in the district for which the Local Agent holds a license, and a copy shall also be sent to the employer or association or firm on whose application the Local Agent's license was granted.

Endorsement  
of Local  
Agent's  
licenses.

(2) If the Local Agent fails to produce his license when called upon under sub-section (1), he shall be punishable with fine which may extend to two hundred rupees.

**116-E.** (1) Subject to the provisions of rules made under this Chapter, the Board may levy a cess on employers for the purpose of meeting expenditure incurred in carrying out its functions under this Act, and in particular for the payment of the salary of Supervisors and of such proportion of the salary of the Chairman as may be determined under section 116-B.

Cess.

[<sup>1</sup>](2) Such cess shall be payable on every person deputed by an employer to engage or assist persons to emigrate and on every person assisted to emigrate to a labour district :

Provided that the rates at which the cess is levied shall not exceed the following rates, namely :—

Five rupees a year on each person so deputed ; and

Five rupees on each person assisted to emigrate.]

(3) On the failure of an employer for the space of one month after the receipt of a notice in such form and served in such manner as the Governor General in Council may, by rule under this Chapter, prescribe, to pay any sum due under sub-section (1), the same shall be recoverable from him.

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[1] This sub-section was substituted for the original sub-section by the Assam Labour and Emigration (Amendment) Act, 1927 (31 of 1927), s. 2, *post*, p. 694.

(Secs. 116F-117.)

Rules.

**116-F.** (1) The Governor General in Council shall, after previous publication, make rules to carry out the purposes of this Chapter.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may, subject to the provisions of this Act, provide—

- (a) for the powers to be exercised and the duties to be performed by the Board in carrying out the purposes for which it is constituted, and for the powers and duties of the Executive Committee and of the Chairman;
- (b) for the period within which elections to the Board must be made; for the election of members of the Executive Committee; and for the appointment of temporary or acting members of the Board and of the Executive Committee during the absence of any member;
- (c) for the times and places of meetings and procedure of the Board and of the Executive Committee;
- (d) for regulating the rate of the cess, the method of levying and collecting the cess, the purposes to which the cess may be applied, and the accounts to be kept and the audit thereof; and
- (e) for the powers and duties of Supervisors appointed under section 116-C.

## CHAPTER VII.

### PROVISIONS AS TO THE LABOUR-DISTRICTS.

#### *Annual Rate payable by Employers.*

Annual rate  
payable by  
employer.

**117.** (1) Every employer shall, on the first day of January and the first day of July in each year, pay in respect of each labourer then in his employ such rate, not exceeding an annual sum of one rupee, as the Local Government may, by notification in the local official Gazette, direct.

(2) On the failure of an employer, for the space of one month after the receipt of a notice in such form and served in such manner as the Local Government may prescribe, to pay any sum due under subsection (1), the same may be recovered from him.

(Secs. 118-121.)

*Local labour-contracts.*

**118.** (1) Any employer may enter into a labour-contract for a term, not exceeding one year commencing from the date of execution of the labour-contract, with any native of India within the labour-district in which the estate to which the labour-contract refers is situate.

Labour con-  
tracts exe-  
cuted in  
labour-  
districts  
between  
employer  
and native  
direct.

(2) Where an employer has under sub-section (1) executed a labour-contract within a labour-district, he shall, within one month from the date of the execution of the labour-contract, forward it in duplicate to the Inspector within the local limits of whose jurisdiction the estate is situate. On receipt of the labour-contract so forwarded, the Inspector shall enter an abstract thereof in a register to be kept by him for the purpose, and shall then give one copy of the labour-contract to the labourer and the other to his employer.

**119.** When, for the first time after the registration, under section 118, sub-section (2), of a labour-contract with a labourer, the Inspector visits the estate on which the labourer is employed, the employer shall cause the labourer to appear before the Inspector for the purpose of having his contract verified, and the labourer may thereupon apply to the Inspector to cancel his labour-contract; and, if the labourer shows cause sufficient, in the opinion of the Inspector, to justify the cancellation of his labour-contract, the Inspector shall cancel the same and shall thereupon make an endorsement that it has been cancelled on the labourer's copy of the labour-contract, or, if that copy is not forthcoming, shall give to the labourer a certificate to the like effect.

Verification  
and  
cancellation  
of such  
contracts.

**120.** The Inspector or Magistrate may, either on the application of the employer or the labourer or of his own motion, require the employer to cause any labourer who has entered into a labour-contract under section 118 and is employed upon any estate within the local limits of the jurisdiction of the Inspector or Magistrate, to appear before him for the purpose of having his labour-contract verified; and, if the labourer applies to the Inspector or Magistrate to cancel his labour-contract and shows cause which the Inspector or Magistrate, after considering any cause which may be shown by the employer to the contrary, considers sufficient to justify its cancellation, the Inspector or Magistrate shall cancel the same as provided by section 119.

Power of  
Inspector or  
Magistrate  
to require  
labourer  
who  
has executed  
such con-  
tract to  
appear  
before him.

**121.** (1) Notwithstanding the provisions of section 118, an employer may enter into a labour-contract with any native of India in a labour-district for a term not exceeding four years commencing from the date of the execution of the labour-contract, if he appears, or deposes some person to appear on his behalf, with the native of India before the Inspector or Magistrate within the local limits of whose jurisdiction the estate to which the labour-contract refers is situated,

Labour-  
contracts  
executed  
within  
labour-  
district  
before  
Inspector  
or Magis-  
trate,

(Secs. 122-123.)

(2) The Inspector or Magistrate shall thereupon explain the labour-contract to the native of India, and shall, if satisfied that he is competent to enter into and understands the same, call upon him and the employer or the person deputed as aforesaid to execute it in his presence; and, if they execute it, shall attest the execution with his signature.

(3) An abstract of every labour-contract executed under this section shall be entered in a register to be kept by the Inspector or Magistrate for the purpose; and one copy of the labour-contract shall then be given to the labourer and the other to his employer or the person deputed as aforesaid.

(4) In respect of every labour-contract, an abstract whereof is registered under section 118 or under this section, the employer who executes the labour-contract in person or the person deputed to execute the same on his behalf shall pay to the Inspector or Magistrate such fee, not exceeding one rupee, as the Local Government may direct.

*Employers' Returns and Magistrates' Inspections.*

Registers to be kept and returns made by employers.

**122.** (1) Every employer shall keep such registers of all labourers and other persons employed on the estate of which he is in charge, and of their dependants, in such form, and shall make to the Inspector, within the local limits of whose jurisdiction the estate is situate, such periodical returns in writing, as the Local Government may, by rule, prescribe.

(2) The Inspector may examine the registers so kept and muster all labourers and other persons employed on any estate within the said local limits and may verify the accuracy of the entries in the registers, or in any prescribed periodical return.

Power for Inspector, etc., to inspect lands and houses and to make requisitions and inquiries.

**123.** Any Inspector or Magistrate, or any person authorised by either of them in writing in this behalf, may enter and inspect all lands and houses wholly or partially used by or for labourers or by or for any other natives of India employed on any estate, and may require that all such labourers or other natives of India as aforesaid, or any particular class or classes of individual or individuals of them, shall be brought before him, and that a copy of the labour-contract of any labourer shall be produced, and may make any inquiries which he thinks proper touching the condition or treatment of such labourers or other natives of India as aforesaid or any of them; and the employer shall be bound to comply with every requisition and to answer every inquiry so made to the best of his ability.

(Secs. 124-126.)

*Regulation of Labour.*

**124.** (1) Every employer shall prepare a schedule specifying the daily task to be executed by each labourer employed on the estate of which the employer is in charge, and may, from time to time, alter any schedule so prepared. Schedule of daily tasks to be prepared.

(2) One copy of every schedule prepared under sub-section (1) shall be filed in a book, which shall be open to the examination of the Inspector, and translations thereof, in such languages as the Chief Commissioner of Assam may direct, shall be affixed in some conspicuous place accessible to the labourers to whom the schedule relates.

(3) The minimum payment for each daily task shall be the quotient resulting from dividing the monthly wage of the labourer concerned by the number of working days in the current month. The number of working days in a month shall be ascertained by deducting the number of Sundays from the whole number of days in the month.

**125.** (1) No labourer shall be bound to labour more than six days in one week, or more than six consecutive hours, or more than nine hours in one day. Limitation on tasks and payment of wages.

(2) Every employer shall, on six days in each week, provide for each labourer work sufficient to enable him to earn at least his minimum daily wage; and, failing such due provision of work, the labourer shall, if he can show that he was able and willing to labour for the same, be entitled to claim his minimum daily wage.

(3) On or before the fifteenth day of each month the employer shall pay to every labourer in his employment the wages earned by the labourer during the preceding month and still unpaid.

**126.** (1) Where the Inspector considers that any schedule of daily tasks, or any part thereof, is unreasonable, he may, by order in writing, direct that such reduction as is specified in the order be made in the scheduled daily tasks. Provisions for revision of schedule by Inspector subject to appeal to Committee.

(2) The employer shall at once make the reduction so ordered, but may if dissatisfied with the order of the Inspector, by notice in writing, require the Inspector to summon a Committee to inquire into the schedule.

(3) Every Committee summoned under sub-section (2) shall consist of—

(a) the Inspector,

(b) some person to be nominated by the employer whose schedule is to be inquired into, and,

(c) if practicable, a medical officer.



## (Secs. 127-130.)

(1) Where the employer fails to nominate a person within seven days after being thereunto requested in writing by the Inspector, the Inspector, instead of the employer so failing, may nominate a person.

(5) Where the Committee consists only of the Inspector and of a person nominated by the employer or Inspector, the Inspector shall have the casting vote.

Committee  
to revise  
schedule

**127.** (1) Where the Committee, or a majority thereof, is of opinion that the scheduled daily tasks or any of them are unreasonable, the Committee shall order them to be modified and reduced in such manner as it may think fit.

(2) The employer shall thereupon alter the schedule accordingly, and copies and translations of the same so altered shall be filed and affixed in the manner provided by section 124, and shall, as between him and the labourers concerned, take the place of the former schedule.

Provision  
for weakly  
labourers.

**128.** (1) Notwithstanding anything contained in any schedule of daily tasks, the Inspector may order that any specified labourer, who is, in his opinion, unable from weakness to earn by his labour the sum of one anna-and-a-half *per diem*, according to the schedule, shall receive, in lieu of actual earnings, subsistence-allowance at the rate of one anna-and-a-half *per diem*, or diet on a scale to be approved by the Inspector.

(2) Any subsistence-allowance ordered under sub-section (1) may be recovered from the employer of the labourer concerned.

*Incapacity for Labour.*

Inspector  
may sus-  
pend con-  
tract of any  
labourer  
temporarily  
unfitted for  
labour.

**129.** (1) The Inspector within the local limits of whose jurisdiction a labourer is employed may release the labourer, for such period as he thinks fit, from performing his labour-contract, if he is, in the opinion of the Inspector, temporarily unfitted, by reason of sickness or any other sufficient cause, for the performance thereof.

(2) Every release granted under sub-section (1) shall be endorsed by the Inspector on the labour-contract, and the time during which the release continues shall not be reckoned as part of the term for which the labourer is bound to serve.

(3) Every labourer released as aforesaid shall, during the release, receive such subsistence-allowance from his employer as the Inspector may think sufficient.

Labourer  
absent from  
sickness

**130.** (1) Where any labourer is compelled, by reason of sickness, to absent himself from work, he shall receive from his employer, for each day on which he is so absent, subsistence-allowance at the rate of one

(Secs. 131-133.)

anna-and-a-half, or, if in hospital, sick-diet on a scale to be approved by the Inspector.

(2) Where the period during which a labourer is so absent exceeds the total number of thirty days in any one year, and the employer, as soon as that number is exceeded, gives the labourer a notice in writing to that effect, each day of absence in excess of that number shall be added to the term of the labour-contract, unless the labourer refunds to the employer the sum of one anna-and-a-half for each day so in excess.

(3) The Inspector shall, from time to time, when visiting the estate, on the application of the employer, and may also at any other time, on the application of either the employer or a labourer, endorse on the labour-contract of the labourer, after such inquiry as he may think necessary, the number of days so to be added to the term thereof :

Provided that an employer, who omits to apply for such endorsement as aforesaid at the time when the Inspector is actually visiting the estate, shall in the absence of sufficient reasons to the contrary shown to the satisfaction of the Inspector, be debarred from applying afterwards for endorsement in so far as days of absence which occurred prior to the date of the Inspector's last visit are concerned.

**131.** (1) Where, in the opinion of the Inspector, a labourer is permanently incapacitated for the performance of his labour-contract or any material part thereof, the Inspector shall certify to that effect in writing and deliver the certificate to the employer of the labourer or to the representative of the employer, and, from the date of the certificate, the labour-contract of the labourer shall wholly determine.

Discharge of labourer permanently incapacitated.

(2) Every labourer whose labour-contract so determines shall be entitled to receive from his employer such sum, not exceeding three months' wages, as the Inspector may award.

(3) Every sum so awarded and any such subsistence-allowance as is provided for by section 129 or section 130 may be recovered from the employer of the labourer concerned.

*Accommodation for Labourers.*

**132.** Every employer shall be bound to provide for the labourers employed on the estate of which he is in charge such house accommodation, water-supply and sanitary arrangements as the Local Government may, by rule, prescribe.

House accommodation, water-supply and sanitary arrangements for labourers.

**133.** (1) Where the food-grain commonly used by any class of labourers is not procurable by them at reasonable prices in the local markets near the estate on which they are employed, their employer shall be bound to supply them therewith at a reasonable price.

Supply of food-grain for labourers.

(Secs. 134-136.)

(2) The Local Government may, by notification in the local official Gazette, declare, either generally or for each district, or part of a district what shall, for the purposes of this section, be deemed to be a reasonable price.

Provisions  
for  
rationing.

**134.** (1) Subject to such rules as the Local Government may make in this behalf, any Inspector may, by order in writing,—

- (a) direct that, on any specified estate within the local limits of his jurisdiction, all labourers or any specified class of labourers shall be furnished by their employers with rations, cooked or uncooked, on such scale and for such period, not exceeding three months from the date of their arrival on the estate, as may be specified in the order;
- (b) direct that any specified labourer shall be exempt from the effect of any general order so made, if he is satisfied that the labourer is able to earn a full wage and desires to provide himself with proper and sufficient food;
- (c) direct that any specified labourer shall be furnished with rations for any term not exceeding six months, and renew that direction for a like term.

(2) The cost of each labourer's ration furnished to him in accordance with any direction given under sub-section (1) shall be calculated at current rates as determined by the Inspector, and shall be deducted from any wages earned by the labourer during the period for which the direction is in force.

Provision  
for hospital-  
accommoda-  
tion and  
medical  
attendance.

**135.** Where, in the opinion of the Inspector, an employer does not provide such hospital-accommodation in a suitable place available, to the labourers employed upon the estate of which he is in charge, or does not make such provision for the medical treatment of his labourers, as the Local Government may direct, the Local Government may require the employer to contribute to the support of a central hospital to be established, or to the pay of a medical officer to be appointed, such sum proportionate to the number of labourers so employed, as it thinks fit.

Inquiry  
whether  
employer  
has failed  
to provide  
accommoda-  
tion, etc.,  
as required  
by the  
rules.

**136.** (1) Any Inspector or Assistant Inspector, who is himself a Magistrate, may, with respect to any estate situate within the local limits of his jurisdiction, inquire whether the employer in charge of the estate has provided for his labourers house-accommodation, water supply, sanitary arrangements, food-grains and rations in accordance with any rules made by the Local Government under section 132 or 134 or any notification issued under section 133.

(Secs. 137-138.)

(2) At the instance of any Inspector, or Assistant Inspector, a similar inquiry may be made by a Magistrate.

(3) Every inquiry under this section shall be made at some place on, or within ten miles of, the estate to which it relates, and shall be conducted and dealt with as if it were an inquiry by a Magistrate under the Code of Criminal Procedure. 1898.

*Localities unfit for the Residence of Labourers.*

**137.** (1) Where, in the opinion of the Inspector, an estate or portion of an estate situate within the local limits of his jurisdiction is, at any time, by reason of climate, situation or condition, unfit for the residence of labourers, or of any particular class of labourers, he shall give notice, in writing, of his opinion to the District Magistrate, who shall forthwith, by order in writing, summon a Committee to inquire into the matter. Report by Inspector and inquiry by Committee.

(2) The District Magistrate may also of his own motion summon a Committee, where, either from his own observation or upon the report of an Inspector, Magistrate or medical officer, he is of opinion that an estate or portion of an estate is, for any of the reasons aforesaid, unfit for the residence of labourers or of any particular class of labourers.

(3) Every Committee summoned under this section shall consist of—

- (a) the District Magistrate;
- (b) the Inspector;
- (c) the civil medical officer of the district; and
- (d) one or more employers of labourers:

(4) Provided that, if the District Magistrate is unable to procure the service on the Committee of any employer of labourers, he may, with the previous sanction of the Commissioner of the division, appoint one or more persons qualified to serve on the Committee.

**138.** Where it appears to the Local Government, upon the report of an Inspector, Magistrate or medical officer,— Inquiry by Committee by order of Local Government.

- (a) that an estate or portion of an estate is, for any of the reasons given in section 137, unfit for the residence of labourers or of any particular class of labourers, or

(Secs. 139-141.)

(b) that the percentage of mortality of labourers or of any particular class of labourers employed on an estate or on portion of an estate is such as would justify the institution of an inquiry by a medical officer under section 142,

the Local Government may direct the District Magistrate to summon a Committee under section 137; and the District Magistrate shall forthwith proceed to summon a Committee accordingly.

Proceedings  
of Com-  
mittee.

**139.** Every Committee summoned under section 137 or section 138 shall, as soon as may be, inquire into the healthiness of the estate or portion to which the order appointing it relates, and shall hear and record such information on the subject as the owner of the estate or portion, or the employer in charge thereof, or the Inspector, may desire to place before it.

Finding of  
Committee  
and conse-  
quences.

**140.** (1) Where the Committee, or a majority thereof, is of opinion that the estate or portion, or any part of the estate or portion, is unfit for the residence of labourers generally, or of any particular class of labourers, the Committee shall record a finding to that effect.

(2) Where a finding has been recorded under sub-section (1), no labourer, or no labourer of the particular class to which the finding relates, as the case may be, shall be bound by any labour-contract to labour on the estate or portion, or part of the estate or portion, as the case may be, which is found unfit for the residence of such labourers.

(3) Where a labourer is released under sub-section (2) from the performance of his labour-contract to labour on any estate he shall be bound to labour on any other estate belonging to the same owner or in charge of the same employer and situate in the same labour-district; or, where the finding relates only to a portion of an estate, on any other portion of the same estate. Where the finding relates to the whole of any estate and the owner has no other estate or the employer has charge of no other estate in the same labour-district on which the labourer may be employed, the Inspector shall cancel the labour-contract of the labourer, and shall thereupon make an endorsement that it has been cancelled on the labourer's copy of the contract, or, if that copy is not forthcoming shall give to the labourer certificate to that like effect.

Power for  
Local Gov-  
ernment to  
pass orders  
on proceed-  
ings of Com-  
mittees.

**141.** The Local Government may call for the proceedings of any Committee summoned under section 137 or section 138, and, if the finding of the Committee is not unanimous, the Local Government may record any finding thereon which the Committee was competent to record, and the finding so recorded by it shall have the same effect as the finding of a Committee under section 140.

(Secs. 142-144.)

**142.** Where it appears to the Local Government or to the District Magistrate that the number of labourers employed on an estate who have died thereon, or on any portion thereof, during the last preceding twelve months, or that the average annual number of labourers employed on an estate who have died thereon, or on any portion thereof, during the last preceding three years, bears a larger proportion to the whole number of labourers employed thereon during such period of twelve months or three years as the case may be, than seven per cent., the Local Government, or the District Magistrate, may depute the civil medical officer of the district or any other qualified medical officer to inquire into and report on the following matters, namely:—

Excessive mortality on estates.

- (a) the cause or causes of the mortality;
- (b) the want (if any) of due care or precaution, and of the adoption of proper and available sanitary measures on the part of the owner of the estate or portion thereof, or of the employer in charge of the estate or portion, causing or contributing to the mortality;
- (c) the fitness or otherwise of the estate or portion for the residence of labourers:

Provided that, when the mortality among any particular class of labourers employed on an estate or any specified portion of an estate exceeds the percentage specified in this section, the Local Government, or the District Magistrate, may direct an inquiry under this section limited to that particular class of labourers.

**143.** The medical officer deputed under section 142 shall, as soon as may be, inquire into the matters referred to therein and shall hear and record such information relating to those matters as the owner of the estate or portion or the employer in charge of the same, or the Inspector may place before him and shall visit and inspect the estate or portion, and shall make a report expressing the reasons for his opinion, and transmit the same to the Local Government together with the information so recorded and the notes of his inspection of the estate or portion, and the Local Government shall cause the employer to be furnished with a certified copy of such report.

Medical officer to report.

**144.** Where the Local Government, after perusal and consideration of the said report, information and notes, is of opinion that the mortality was caused by the want, on the part of the owner of the estate or portion, or the employer in charge of the same, of due care or precaution or of the adoption of proper and available sanitary measures, or that the

Power for Local Government to declare estate unfit for residence.

(Secs. 145-147.)

estate or portion is unfit for the residence of labourers or of any particular class of labourers, it may make a declaration in writing to that effect, and the declaration so made shall have the same effect as the finding of a Committee under section 140.

Power for  
Inspector to  
certify fit-  
ness of  
estate or  
portion  
found  
or declared  
to be unfit.

**145.** (1) Where it appears to the Inspector that any estate or smaller area, which has been found, or declared under any of the foregoing provisions, to be unfit for the residence of labourers or of any particular class of labourers, has become fit for the residence of labourers or of that class of labourers as the case may be, he shall, with the previous sanction of the District Magistrate of the district in which the estate or area is situate, give a certificate to that effect signed by him.

(2) On the grant of a certificate under sub-section (1), all such labourers as are mentioned or referred to in section 140, sub-section (3), whose contracts have not been cancelled by the Inspector under that section, shall again be bound to labour on the estate or area, as the case may be, to which the certificate relates for the unexpired periods (if any) of their respective contracts.

#### *Complaints made by Labourers.*

Labourer  
wishing to  
complain of  
personal  
ill-usage  
for breach  
of Act to  
be sent by  
employer to  
Inspector or  
Magistrate.

**146.** Where a labourer states to his employer, or any person acting on behalf of his employer, that he desires to make a complaint to the Inspector or to a Magistrate of personal ill-usage or breach, on the part of his employer, or such person as aforesaid, of any of the provisions of this Act or of any rule thereunder, the person to whom the statement is made shall forthwith send the labourer to the Inspector or Magistrate within the local limits of whose jurisdiction the estate wherein he is employed is situate :

Provided that, where more than ten labourers at any one time so state their desire to make such a complaint, the person to whom the statement is made may, instead of sending them to such Inspector or Magistrate as aforesaid, give the Inspector or Magistrate notice, in writing, of their complaint.

Inspector or  
Magistrate  
how to  
proceed in  
case of com-  
plaint.

**147.** (1) Where a complaint is made to an Inspector or Magistrate under section 146, or where an Inspector or a Magistrate receives, under that section, notice in writing of a complaint, or where an Inspector or a Magistrate has other reasonable grounds for believing that an employer, or person acting on his behalf, has personally ill-used, or committed any such breach as is mentioned in section 146 in respect of a labourer, the Inspector or Magistrate shall, as soon as may be, proceed

(Secs. 148-150.)

to some place, not more than ten miles from the principal place of business of the employer, situate within the local limits of his jurisdiction, and inquire into the matter complained of :

Provided that, if the place in which an Inspector or Magistrate has reasonable grounds for believing that the ill-usage or breach has been committed is situate beyond the local limits of his jurisdiction, he shall, instead of inquiring into the matter himself, forthwith send information thereof in writing to the Inspector or Magistrate within the local limits of whose jurisdiction the ill-usage or breach has been committed.

(2) For the purposes of every inquiry made under sub-section (1), the Inspector or Magistrate may summon and examine any person as a witness.

**148.** (1) Where, upon an inquiry made under section 147 on the complaint of a labourer, the Inspector or Magistrate is of opinion that the complaint is untrue or frivolous or vexatious, he shall dismiss the complaint; and in that event shall endorse on the employer's copy of the complainant's labour-contract the number of days during which the complainant has been absent from work in consequence of the inquiry, and the number of days so endorsed shall be added to the period for which the complainant contracted to labour.

Untrue or  
frivolous  
complaints.

(2) Every endorsement made under sub-section (1) shall be conclusive evidence that the complainant has absented himself from his labour voluntarily and without reasonable cause during the number of days so endorsed.

**149.** (1) Where a complaint is dismissed under section 148, the Inspector or Magistrate may award to the employer any reasonable compensation on account of the expense incurred by him in connection with the complaint, and shall endorse the amount of the compensation so awarded on the complainant's copy of the labour-contract.

Award of  
compensa-  
tion to  
employer.

(2) The complainant shall be bound to pay the amount awarded under sub-section (1); and, in default of payment, his labour-contract shall not be deemed to have determined until he has worked off the amount at the rate of one day's labour for each four annas of the same.

**150.** (1) Where, upon an inquiry made under section 147 by a Magistrate or by an Inspector who is a Magistrate, the Magistrate or Inspector is of opinion that there is sufficient ground for proceeding with the case, he shall dispose of the same according to law.

Complaints  
disclosing  
grounds for  
further  
proceedings

(2) Where the Inspector is not a Magistrate and is of such opinion as aforesaid, he shall without delay send the complainant and his



(Secs. 151-152.)

witnesses (if any) to the nearest Magistrate, who shall thereupon dispose of the case according to law

Recovery  
of arrears  
of wages  
and com-  
pensation

**151.** (1) Where, upon the complaint of a labourer, it is proved to the satisfaction of a Magistrate that the wages of the labourer are in arrear for two months after the first day of the month succeeding the month in which they were earned, or where it is proved to the satisfaction of a Magistrate that the wages of a person whose labour-contract has determined have been withheld for any period after determination, the Magistrate may award to such labourer or person as aforesaid the amount which appears to be then due to him, and also, by way of compensation, such further sum, not exceeding that amount, as to the Magistrate seems just.

(2) On the failure of an employer to pay any amount awarded under sub-section (1) the Magistrate may recover the same from the employer and pay it to the labourer or other person concerned

Power to  
cancel con-  
tract on  
conviction  
of employer  
or accumula-  
tion of  
arrears of  
wages

**152.** (1) Where it is proved to the satisfaction of a Magistrate—

(a) that an employer, or any person placed by an employer in authority over a labourer, has been convicted of any offence causing injury to the person or loss or damage to the property of the labourer, and, under the Code of Criminal Procedure, 1898, triable exclusively by the Court of Session; or

(b) that an employer or any person placed by an employer in authority over a labourer has been twice convicted of any such offence as aforesaid as against the labourer and under the said Code triable by a Magistrate; or

(c) that the wages of a labourer are in arrear to an amount exceeding the whole of his wages for four months; or

(d) that a labourer has been compelled by his employer or by any person placed by his employer in authority over him to perform any labour while he was unfit for it, or has been subjected to ill-usage by his employer or any such person as aforesaid;

the Magistrate may, if he thinks fit, on the application of the labourer aggrieved, cancel the labour-contract of the labourer and award to him compensation not exceeding thirty rupees.

(2) Every cancellation under sub-section (1) shall be certified by the Magistrate on the back of the labourer's copy of the labour-contract, or,

(Secs. 153-156.)

if that copy is not forthcoming, by writing under the Magistrate's hand delivered to the labourer.

**153.** (1) Where it appears to the Local Government that the condition of the labourers on an estate, or of any class or any considerable number of them, is unsatisfactory owing to the insufficiency of their earnings to maintain them in health and comfort, the Local Government, after such inquiry as it thinks necessary, may direct that the labour-contracts of all such labourers be cancelled.

Power to Local Government to cancel contracts of labourers whose condition is unsatisfactory owing to insufficiency of earnings

(2) No labour-contract shall be cancelled under this section until the employer has been given an opportunity for showing cause why it should not be cancelled.

**154.** Where the labour-contract of a labourer is or has been cancelled or has determined under section 119, section 120, section 131 or section 152, the Inspector or Magistrate, as the case may be, may in his discretion and on the application of the labourer concerned cancel the labour-contract of any labourer employed on any estate belonging to the same employer, being the wife, husband, father, mother, son or daughter of the labourer whose labour-contract is or has been so cancelled or has so determined.

Power to cancel contract of labourer related to labourer whose contract is cancelled or determined.

*Determination of Labour-contracts.*

**155.** Whenever a labour-contract determines, the employer shall endorse on the labourer's copy of the contract the fact of determination, or, if that copy is not forthcoming, shall give to the labourer a certificate to the like effect; and, where the employer refuses or neglects to do so, the Inspector may, on application by the labourer, make such endorsement or give such certificate as aforesaid.

Endorsement of determination on labour-contract.

(2) The employer shall give to the Inspector notice in writing of such determination as aforesaid within one month after the date thereof.

**156.** (1) Where a labourer is able and desirous to redeem the unexpired term of his labour-contract, or the labour-contract of any member of his family, by payment of a sum equivalent to the value of the unexpired term, the labourer may require his employer to take him, or allow him to go, before the Inspector within the local limits of whose jurisdiction he is employed; and on his depositing such sum as aforesaid with the Inspector, the Inspector shall give notice to the employer to show cause within one week why the labourer should not be released from his contract.

Power to redeem labour-contract.

(Secs. 157-158.)

(2) If no sufficient cause is shown as aforesaid, the Inspector shall require the labourer's copy of the contract to be produced, and on production thereof shall endorse thereon a certificate that he has been released under this section from his contract, or, if that copy is not forthcoming, shall deliver to the labourer a certificate under his hand to the like effect; and shall, in either case, hold the sum so deposited to the credit of the employer of the labourer.

(3) The value of the unexpired term of a labour-contract shall, for the purpose of this section, be deemed to be the aggregate amount of one rupee for every month of the unexpired portion of the first year, of three rupees for every such month of the second year, and of five rupees for every month of the third and fourth years of the original term of the contract:

Provided that, if a person who has completed four years' service under a labour-contract enters into a new labour-contract for one year, he shall not be entitled to redeem the unexpired portion of such new labour-contract unless on the payment of two rupees for each month of the said unexpired portion.

Power to  
equalize  
terms of  
contract in  
case of  
husband  
and wife.

**157.** (1) Where the labour-contract of a labourer determines at a time different from that of any other labourer who is the wife or husband of that labourer, the Inspector or Magistrate may, on the joint application of both labourers, equalize the terms of their respective contracts, and may, for this purpose, add to the term of the contract which expires first, and deduct from the term of the contract which expires last in such proportions as may appear to him to be equitable.

(2) Every addition or deduction from the term of any labour-contract made under sub-section (1) shall be certified by the Inspector or Magistrate on the back of both the employer's and the labourer's copies of the contract, or, if those copies are not forthcoming, by writing under the Inspector's or Magistrate's hand, copies of which shall be delivered to the employer and the labourer.

#### *Repatriation of Labourers and Others.*

Repatriation  
of labourer  
whose con-  
tract has  
determined  
under sec-  
tion 131.

**158.** (1) Where any labourer, not being a native of the labour-districts, whose labour-contract has determined under section 131, desires to be sent back to his native district, the Inspector may, instead of awarding a sum as receivable by the labourer from his employer, as provided by that section, order the employer to deposit such amount, whether in excess of the three months' wages awardable under that section or otherwise, as shall, in the Inspector's opinion, be sufficient to cover the entire expenses of sending the labourer back to his native

(Secs. 159-161.)

district. The amount shall be deposited by the employer in the Inspector's office and shall be expended by the Inspector in sending the labourer back to his native district.

(2) On the failure for the space of twenty-four hours of an employer to comply with an order made under sub-section (1), the Inspector may expend the amount specified in the order and may recover the same from the employer of the labourer concerned.

**159.** Where any person, being a native of India but not being a labourer, who has emigrated from his native district to a labour-district for the purpose of labouring for hire in any estate situate therein, or being a dependant of any person who has so emigrated, has no means of subsistence, and is, in the opinion of the Inspector or Magistrate, permanently incapacitated from earning his livelihood in a labour-district, the Inspector or Magistrate may, on the application of such person, send him back, together with his dependants (if any) to his native district, and may, subject to the control of the Local Government, charge the expenses incurred in so doing to the Labour Transport Fund constituted under section 218.<sup>[1]</sup>

Repatriation of persons emigrating not under labour-contract who are physically incapacitated.

**160.** (1) Subject to any orders which the Local Government may make in this behalf, the Inspector or Magistrate may, if he thinks fit, detain and may send back to his native district any labourer, together with his dependants (if any), whose contract has been cancelled under section 119 or section 120 on the ground of coercion, undue influence, fraud or misrepresentation, or of any irregularity in connection with his recruitment or the execution of his contract.

Repatriation of labourers wrongfully recruited.

(2) Any expenditure incurred under sub-section (1) may be recovered from the employer on whose estate the labourer concerned was under contract to labour.

**161.** (1) Where it appears to the Inspector or Magistrate, on complaint made before him or otherwise, that there is reason to suppose that any native of India, not being a labourer, has been induced by any coercion, undue influence, fraud or misrepresentation to emigrate to a labour-district, the Inspector or Magistrate shall call upon the employer on whose behalf the person was made or induced to emigrate, or to whose estate he is being or has been conveyed, or, if the employer cannot be communicated with without undue delay, upon his agent or any one who is accompanying or conveying the person or has forwarded or otherwise assisted him to emigrate to any labour-district or estate, to appear before the Inspector or Magistrate and show cause why the person should not be sent back to his native district.

Repatriation of persons not under labour-contract wrongfully recruited.

[1] The new s. 218, *post*, p. 611, does not constitute a Labour Transport Fund,

(Secs. 162-163.)

(2) Where the Inspector or Magistrate is of opinion, after such inquiry as he thinks sufficient, that such person as aforesaid was engaged or compelled or induced to emigrate by any such coercion, undue influence, fraud or misrepresentation as would justify his being sent back to his native district, the Inspector or Magistrate shall record a finding to that effect and shall, if necessary, detain the person and shall send him, if he so desires, together with any other persons dependant on him, back to his native district.

(3) Subject to any orders which the Local Government may make in this behalf, any expenditure incurred under this section may be recovered from the employer on whose behalf the person concerned was induced to emigrate or to whose estate he was being or had been conveyed, or, if the employer is not known, or if there is no employer, the person who is accompanying or conveying the person concerned or has forwarded or otherwise assisted him to emigrate to any labour-district or estate.

Arrangement may be made for escorting persons ordered to be repatriated.

**162.** (1) Where a labourer or other person is sent back to his native district under section 158, 160 or 161, the Inspector or Magistrate may provide an escort or make such other arrangements as he may think necessary for ensuring that the labourer or person is actually conveyed to his native district.

(2) Any expenditure incurred under sub-section (1) may be recovered as part of the amount expended in sending the labourer or other person back to his native district.

## CHAPTER VIII.

### RULES.

General power for the Local Government to make rules.

**163.** (1) In addition to the powers hereinbefore conferred the Local Government may make rules<sup>[1]</sup> to carry out any of the purposes and objects of this Act in the Province.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) define and regulate the powers and duties of the several officers appointed by it under this Act;

(b) prescribe what returns and reports shall be made under this Act by any such officers as aforesaid or by any \* \* \*<sup>[2]</sup>

[1] For rules made under s. 163, see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

[2] Words repealed by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), s. 7 (1), and Sch., *post*, pp. 658 and 659, are omitted.

(Sec. 163.)

local agents within the Province and the form in which they shall be respectively so made ;

- (c) prescribe the forms of all registers, licenses, certificates, permits and notices required under this Act with respect to the Province ;
- (d) prescribe the fees to be paid for any license granted under this Act by any officer appointed by it and for the registration of labourers or their dependants in any district in the Province ;
- (e) prescribe the particulars to be registered by a registering-officer in respect of each person who is brought before him in any district in the Province for registration as a labourer or dependant ;
- [<sup>1</sup>](f) \* \* \* \* \*
- (g) provide for the accommodation, food, clothing and medical treatment of all labourers and their dependants detained on account of sickness by order of a Magistrate at any place within any district in the Province ;
- (h) prescribe the conditions upon which any officer appointed by it may grant licenses to masters of vessels carrying passengers to any labour-district ; provide for the ventilation, cleanliness and water-supply of such vessels in respect of which licenses are granted hereunder by any such officer ; and prescribe the lists, returns and reports to be kept and submitted by the masters of such vessels ;
- (i) prescribe the description, quantity and quality of provisions, medical drugs and other stores to be taken on board such vessels carrying labourers when such vessels are within the Province, and the daily allowance to be issued to such labourer and dependant during the journey through the same ; prescribe the number of officers, cooks and other servants to be carried on board such vessels ; and provide generally for the accommodation of labourers and their dependants on such vessels ;
- (j) provide for the detention and inspection of such vessels and of all the passengers, being natives of India, carried in such vessels while in transit through the Province ;
- (k) declare the routes through the Province by which labourers, emigrants under Chapter V and dependants shall travel to the labour-districts ;

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[<sup>1</sup>] Clause (f) was repealed by the Assam Labour and Emigration (Amendment) Act 1915 (8 of 1915), s. 7 (1), and the sch., *post*, p. 653.

## (Sec. 163.)

- (l) prescribe the clothing to be supplied to labourers emigrants under Chapter V and dependants while proceeding to the labour-district through the Province;
- (m) require depôts and rest-houses to be provided by and at the cost of employers, \* \* [1] or agents for the accommodation of labourers, emigrants under Chapter V and dependants on any prescribed route, and provide for the sanitation and superintendence of such depôts and rest-houses;
- (n) prescribe the mode and the numerical strength of the parties in which labourers, emigrants under Chapter V and dependants are to travel, the arrangements to be made by and at the cost of employers, \* \* [1] or agents for facilitating the journey of labourers, emigrants under Chapter V and dependants, the length of daily marches by road, and the provision to be made by and at the cost of employers, \* \* [1] or agents for the carriage of labourers, emigrants under Chapter V and dependants when suffering from sickness;
- (o) regulate the food to be supplied by and at the cost of employers, \* \* [1] or agents to labourers, emigrants under Chapter V and dependants, and the provision to be made for the proper cooking of such food;
- (p) regulate the water-supply to be maintained by and at the cost of employers, \* \* [1] or agents for the use of labourers, emigrants under Chapter V and dependants;
- (q) require suitable hospital-accommodation, medical treatment and maintenance to be provided by and at the cost of employers, \* \* [1] or agents for labourers, emigrants under Chapter V or dependants when suffering from sickness on their journey to a labour-district;
- (r) regulate the arrangements to be made by and at the cost of employers, \* \* [1] or agents in case of the death of any labourer, emigrant under Chapter V or dependant during the journey to a labour-district;
- (s) prescribe the house-accommodation, water-supply, sanitary arrangements and amount and kind of food-grains to be provided by employers for their labourers, and regulate the rations to be supplied to labourers under this Act in the labour-districts in the Province; and

[1] The word "contractors" repealed by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), s. 7 (1), and the Sch., *post*, pp. 658 and 659, is omitted.

(Secs. 164-167.)

(t) provide for the hospital-accommodation and medical treatment of labourers in such labour-districts, and prescribe the nature, quality and quantity of medical drugs and other stores to be provided for such labourers.

(3) Where an employer, \* \*[1] agent or other person fails to perform any act which he is by any rule made under sub-section (2) required to perform, the Local Government may cause the act to be performed and the cost may be recovered from the employer, \* \*[1] or agent, as the case may be.

(4) In making any rule under this Act the Local Government may direct that every breach thereof shall be punishable with fine not exceeding in any case five hundred rupees.

(5) All rules made by the Local Government under this Act shall be published in the local official Gazette, and, on such publication, shall have effect as if enacted by this Act.

## CHAPTER IX.

### PENALTIES AND PROCEDURE.

**164.** Whoever knowingly recruits, engages, induces or assists, or attempts to recruit, engage, induce or assist, any person to emigrate in contravention of any of the provisions of this Act or of any notification for the time being in force thereunder, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both. Recruit-  
ment, etc.,  
in contra-  
vention of  
Act or noti-  
fication.

**165.** (*Wilful misdescription by recruiter.*) Rep. by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), Section 7 (1), and the Schedule.

**166.** (*Recruiter removing, etc., unregistered persons.*) Rep. by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), Section 7 (1), and the Schedule.

**167.** (*Recruiter not supplying proper food, etc.*) Rep. by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), Section 7 (1), and the Schedule.

[1] The word "contractor" repealed by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), s. 7 (1), and the Sch., *post*, pp. 658 and 659, is omitted.



(Secs. 168-171.)

**168.** (*Labourer refusing without reasonable cause to execute contract at depôt.*) Rep. by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), Section 7 (1), and the Schedule.

Labourer  
refusing to  
execute  
contract  
with  
garden-  
sardar.

**169.** (1) Any labourer registered under section 69 who, without reasonable cause, refuses or neglects to execute, in accordance with the provisions of section 72, a labour-contract in conformity with the terms made known to him when he was registered, shall be punishable with fine which may extend to twenty rupees or to the amount of the expense reasonably incurred by the garden-sardar in procuring his registration, whichever amount is least.

(2) Every fine levied under sub-section (1) shall be paid to the garden-sardar by whom such expense as aforesaid was incurred.

Garden-  
sardar  
failing to  
report him-  
self, etc.

**170.** Whoever, being a garden-sardar holding a certificate under Chapter IV,—

(a) fails, within fourteen days after his arrival in the local area within which he is authorized to enter into contracts under this Act, to report himself to the local agent (if any) specified in the certificate; or

(b) fails, without sufficient cause, to return to his employer within the time specified in his certificate; or

(c) fails to account for the money advanced to him by his employer for the purpose of engaging labourers;

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both;

and may, if a labourer under a labour contract, on the application of his employer or of a person acting on behalf of the employer, be sent back or made over to his employer for the purpose of completing his term of service.

Garden-  
sardar, etc.,  
abandoning  
labourers,  
etc.

**171.** Whoever, being a garden-sardar holding a certificate under Chapter IV or a person appointed under \* \* \* [1] section 76 to accompany labourers to a labour-district,—

(a) wilfully abandons any labourer or his dependant on the way to the labour-district; or

(b) removes or attempts to remove any person to a labour-district before he has executed a labour-contract in accordance with section 72; or

[1] Words and figures repealed by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), s. 7 (1), and the Sch., post, pp. 658 and 659, are omitted.

(Secs. 172-173.)

- (c) induces or attempts to induce any person to go to a labour-district or to leave the local area specified in the certificate of the garden-sardar before he has executed a labour-contract as aforesaid or aids or attempts to aid him in proceeding to a labour-district or in leaving any such local area as aforesaid before he has executed such a labour-contract;

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

[<sup>1</sup>]172. (1) Whoever, being a garden-sardar holding a certificate under Chapter IV,—

- (a) makes over to the Garden-sardar or Local Agent of any employer other than the employer by whom his certificate was granted, or, without authority from his employer, to any other person, any person whom he has engaged or intends to engage as a labourer or whom he has assisted or intends to assist to emigrate under Chapter IV as modified by any notification issued under section 91; or
- (b) places any such person as aforesaid in a place of accommodation used in connection with the unlawful recruitment or engagement of labourers; or
- (c) allows any person unlawfully recruited or engaged as a labourer to share the accommodation provided by him under section 62;

Garden-sardar making over labourers to unauthorised persons, etc.

shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both, and his certificate may be impounded by the convicting Magistrate.

(2) Any Magistrate impounding a certificate under this section shall send it for cancellation to the Magistrate by whom it was countersigned.

173. Any garden-sardar holding a certificate under Chapter IV or person appointed by him as provided by section 76, who accompanies labourers to the labour-districts and fails to present a way-bill as required by section 79, sub-section (1), or to carry out any of the instructions entered in the way-bill, shall be punishable with fine which may extend to twenty rupees.

Garden-sardar failing to comply with instructions endorsed on way-bill.

[1] Substituted for the original by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), s. 7(2) (iii), *post*, p. 658.

(Secs. 174-178.)

Unlawful  
engagement  
of emigrants  
by garden-  
sardar.

**174.** Whoever,—

(a) \* \* \* \* \*

(b) being a garden-sardar employed under the control of an agency or association to engage persons and assist them to emigrate in accordance with the provisions of section 91, infringes any of the conditions prescribed by or under that section;

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees for every such infringement.

**175.** (*Local agent or selecting agent working with contractor.*)  
*Rep. by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), Section 7 (1), and the Schedule.*

Master  
receiving  
native  
passengers  
on board  
in contra-  
vention of  
Act.

**176.** (1) Whoever,—

(a) being a master not licensed under section 97, in contravention of section 96, sub-section (1), knowingly receives on board his vessel more than twenty passengers being natives of India; or,

(b) being a master licensed as aforesaid, knowingly receives on board his vessel any such passengers in excess of the number specified in his license or in any order of an Embarkation Agent under section 100 for the purpose of transporting them to a labour-district,

shall be punishable with fine which may extend to two hundred rupees for each passenger so received.

(2) Nothing in this section applies to the master of a vessel exempted under section 96, sub-section (2).

Fraudulent  
alteration  
of vessel  
after  
grant of  
license.

**177.** Whoever, being a master licensed under section 98, with intent to defraud, does or suffers to be done, any act or thing whereby the state of his vessel is altered, so that the vessel is unfit for the accommodation of the number of passengers specified in his license or in any order made under section 100 by an Embarkation Agent, shall be punishable with fine which may extend to two hundred rupees.

Master not  
complying  
with  
section 102.

**178.** Whoever, being a master licensed under section 98, proceeds on his voyage with his vessel carrying labourers without having complied with the provisions of section 102, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees.

[1] Repealed by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), s. 6 (1), *post*, p. 658.

(Secs. 179-185.)

**179.** Whoever, being a master licensed under section 98, fails to comply with an order of an Embarkation Agent made under section 104, shall be punishable with fine which may extend to two hundred rupees for each day during which he fails to comply with the order after the day on which the order was received by him.

Master not complying with order under section 104.

**180.** Whoever, being a master licensed under section 98, causes or permits a labourer finally to leave his vessel in contravention of the provisions of section 106, shall be punishable with fine which may extend to two hundred rupees for each labourer so leaving his vessel.

Master permitting labourer to leave vessel contrary to section 106.

**181.** Whoever, being a master licensed under section 98, wilfully omits to comply with the provisions of section 107, shall be punishable with fine which may extend to two hundred rupees.

Master wilfully omitting to stop vessel at certain places.

**182.** Whoever disobeys any order made under section 109 by a Magistrate, shall be punishable with fine which may extend to two hundred rupees.

Person disobeying Magistrate's orders as to communication between vessel and land.

**183.** Whoever, being a master licensed under section 98, or a medical officer in charge of a vessel, wilfully omits or neglects to obey or enforce on board of the vessel any provision of this Act or any rule thereunder, shall be punishable with fine which may extend to two hundred rupees.

Master or medical officer disobeying or neglecting to enforce rules.

**184.** Whoever, having executed a labour-contract,—

Labourer deserting, etc., after registration.

(a) deserts while on his journey from the district in which he has executed the labour-contract to a labour-district; or,

(b) without reasonable cause, refuses or neglects to proceed to the place where he is to labour or to embark in any vessel when called upon to do so by an Embarkation Agent;

shall be punishable with imprisonment for a term which may extend to one month.

**185.** Whoever, being an employer, refuses or wilfully omits to keep such registers or to make such periodical returns in writing to the Inspector as may be prescribed by any rule made under this Act, or knowingly keeps an incorrect register or makes an incorrect return, or wilfully omits to prepare, file or affix a schedule as required by section 124, shall be punishable with fine which may extend to two hundred rupees.

Employer refusing or omitting to keep registers, etc.

(Secs. 186-191.)

Employer or other person obstructing inspection under section 123.

**186.** Whoever, being an employer, or acting under the orders or on the behalf of an employer, wilfully obstructs any entry, inspection or inquiry, or omits to comply with any requisition made under section 123, shall for every such offence be punishable with fine which may extend to two hundred rupees.

Employer or other person compelling labourer to perform labour for which he is unfit.

**187.** Whoever, being an employer, or acting under the orders or on the behalf of an employer, compels any labourer to perform any labour knowing that he is at the time unfit to perform such labour, shall be punishable with fine which may extend to two hundred rupees.

Persons buying labourer's rations.

**188.** Whoever buys any rations which have been furnished under section 134 to a labourer, and whoever, being a labourer, sells any rations so furnished to him, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees.

Employer omitting to provide house-accommodation, etc.

**189.** (1) Whoever, being an employer, wilfully omits to provide house-accommodation, water-supply, sanitary arrangements, food-grains or rations in accordance with the provisions of this Act or any rule thereunder, shall be punishable with fine which may extend to five hundred rupees; and the convicting Magistrate may order him to comply with such provisions within a reasonable time to be fixed in the order.

(2) If the employer wilfully omits to comply with the order within the time so fixed, he shall be punishable with fine which may extend to one hundred rupees for each day during which the omission continues.

(3) If the employer fails to pay the fine imposed under sub-section (2), the person on whose account he has been acting shall be liable to pay the same.

Employer neglecting to provide hospital-accommodation.

**190.** Whoever, being an employer, fails to provide such hospital-accommodation for, or to make such provision for the medical care and treatment of, labourers, as is required by any rule made under this Act, shall be punishable with fine which may extend to two hundred rupees for each week during which the default continues.

Employer causing labourer to reside on estate declared unfit for residence.

**191.** Where any estate or portion thereof has been found under section 140, or declared under section 144, unfit for the residence of labourers, or any class of labourers, as the case may be, every employer who until a certificate has been given under section 145, causes or permits such labourers or class of labourers to reside or labour upon the estate or portion, shall be punishable with fine which may extend to two hundred rupees.

(Secs. 192-193.)

**192.** (1) Every employer may, on or before the fifteenth day of each month, send to the Inspector a statement in writing containing the names of all or any of his labourers who, voluntarily and without reasonable cause, absented themselves from labour during the preceding month, and specifying the periods of absence. When any employer so sends any statement, he shall, at the same time, notify to each labourer concerned the fact that he has done so.

Unlawful  
absence  
from  
work.

(2) Every Inspector who receives any statement so sent shall, if the employer so desires, when next visiting the estate on which the labourers to whom the statement relates are employed, inquire into each case of absence in the presence of the labourer concerned, and, if satisfied that the labourer has voluntarily and without reasonable cause absented himself, shall, unless the labourer consents to forfeit to his employer the sum of four annas for each day of absence, endorse the days of absence on the labour-contract of the labourer, and add them to the term of the contract.

(3) The Inspector may also, at any time other than that of his visit to the estate, on the application of either the employer or the labourer, after due inquiry, endorse the days of absence on, and add them to the term of, the labour-contract :

Provided that an employer who omits to apply for the endorsement of such days on any labourer's labour-contract when the Inspector is actually visiting the estate shall be debarred, in the absence of sufficient reasons to the contrary shown to the satisfaction of the Inspector, from applying afterwards for such endorsement so far as days of absence reported in statements sent to the Inspector previous to the date of his last visit are concerned.

*Explanation.*—Ill-treatment of a labourer by his employer, or failure of the employer to fulfil any condition of the labour-contract binding on the employer, shall be deemed to be reasonable cause within the meaning of this section.

**193.** Whoever, being a labourer, voluntarily and without reasonable cause, absents himself from his labour for more than seven consecutive days, or for more than seven days in any month, shall be punishable with imprisonment for a term which may extend to fourteen days; and, in case the absence has extended to twenty days, in any two consecutive months, shall be punishable with imprisonment for a term which may extend to one month.

Labourer  
absent with-  
out cause.

*Explanation.*—Ill-treatment of a labourer by his employer, or failure of the employer to fulfil any condition of the labour-contract binding on the employer, shall be deemed to be reasonable cause within the meaning of this section.

*(Secs. 194-196.)*

Statement  
of deser-  
ters.

**194.** Every employer may, on or before the fifteenth day of each month, send to the Inspector a statement in writing, in such form as the Local Government may prescribe, containing the names of all or any of his labourers who have deserted from his service during the preceding month, or who, having deserted at any previous time, have been absent during the preceding month, or who, having deserted during the month, or previously, have been arrested or have returned to his service during the preceding month.

Deserter  
may be  
apprehend-  
ed without  
warrant.

**195.** (1) Where any labourer deserts from his employer's service the employer, or any person authorized by him in this behalf, may, without a warrant and without the assistance of any police-officer, arrest the labourer wherever he may be found:

Provided that, if the labourer is found within five miles of the place where a Magistrate resides or in the service of another employer, he shall not be arrested without warrant.

(2) Every police-officer shall assist in arresting any such labourer if so required by the employer or person authorized by him in this behalf.

(3) Whoever arrests a labourer under this section shall without delay take him to the police-station nearest to the place of the arrest; and if he fails to do so shall be punishable with fine which may extend to two hundred rupees.

Procedure  
at Police-  
station.

**196.** (1) The police-officer in charge of such station shall, on the appearance of the parties, take down in writing the statements of the labourer arrested and of the person arresting the labourer.

(2) If the labourer admits the contract and does not claim to be forwarded to a Magistrate, the police-officer may permit the person arresting the labourer to convey him to the estate on which he is under contract to labour, and shall then transmit the statements recorded and a report of his proceedings to the Magistrate within the local limits of whose jurisdiction the police-station is situated.

(3) If the labourer does not admit the contract or claims to be forwarded to the Magistrate, or if, for any reason, it appears to the police-officer desirable that he should be so forwarded, the police-officer shall forthwith send the labourer, together with the statements recorded as aforesaid and a report of his proceedings, to the Magistrate within the local limits of whose jurisdiction the police-station is situated.

(4) If the estate on which the labourer is under contract to labour is not situate within the local limits of the jurisdiction of the Magistrate referred to in sub-section (2) or sub-section (3), the Magistrate shall forward the statements and report received by him from the police to

(Secs. 197-200.)

the Magistrate within the local limits of whose jurisdiction such estate is situate. He shall also, when the labourer has been sent to him by the police, either forward the labourer to, or take security for his appearance before, such other Magistrate as aforesaid.

(5) On receipt of such statements and report the Magistrate within the local limits of whose jurisdiction the estate is situate may, after making such inquiry as he considers desirable into the case, pass such order in accordance with law as he thinks proper. For the purpose of any such inquiry the Magistrate may, if he thinks fit, in any case in which the labourer arrested has not been sent to or appeared before him, require the labourer to appear before him.

**197.** Where an employer or a person acting on behalf of an employer complains to a Magistrate that a labourer has deserted from the employer's service, the Magistrate may, without previously examining the complainant, issue a summons for the attendance of the labourer, or a warrant for his arrest, and fix a day for hearing the complaint. Procedure on complaint of desertion.

**198.** (1) Whoever, being a labourer, deserts from his employer's service, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to twenty rupees, or with both. Punishment for desertion.

(2) For a second conviction for a like offence the offender shall be punishable with imprisonment for a term which may extend to two months, or with fine which may extend to fifty rupees, or with both.

(3) For a third and every subsequent conviction for a like offence the offender shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

**199.** (1) Where it appears to a Magistrate trying a labourer for deserting from his employer's service that such labourer was arrested without sufficient cause, the Magistrate may impose a fine, which may extend to fifty rupees on the employer or person acting on his behalf by whom or at whose instance the labourer was arrested. Compensation for wrongful arrest.

(2) The Magistrate may in his sentence direct that the whole or any part of the fine levied under sub-section (1) be paid by way of compensation to the labourer arrested.

**200.** Where a labourer has actually suffered imprisonment for terms amounting in the whole to six months for desertion from his employer's service, the Inspector shall cancel the labour-contract of the labourer, and shall endorse on his copy of the contract a certificate of the cancellation; or, if that copy is not forthcoming, he shall give to the labourer a written certificate to the like effect. Cancellation of contract by desertion.



(Secs. 201-205.)

Penalty for drunkenness or neglect of sanitary regulations.

**201.** Whoever, being a labourer, is guilty of habitual drunkenness, or wilfully disregards any sanitary regulation approved by the Inspector and duly notified for the guidance of the labourers on the estate on which the labourer is employed, shall be punishable with imprisonment for a term which may extend to one week, or with fine which may extend to five rupees.

Portion of sentence may be cancelled on application of employer.

**202.** (1) The employer of a labourer sentenced to imprisonment for any offence under this Act, or any person authorized to act in this behalf for the employer, may apply to the Magistrate that the labourer be made over to him for the purpose of completing his labour-contract.

(2) On an application being made under sub-section (1), the Magistrate may, if he thinks fit, order that the labourer be made over or forwarded to his employer; and in that case the Magistrate shall cancel the sentence passed on the labourer or any unexpired portion of the same, and shall endorse on his copy of the labour-contract a certificate of the cancellation, or, if that copy is not forthcoming, shall give him a written certificate of the cancellation.

(3) Nothing in this section shall be deemed to affect the provisions of section 200.

Expense of forwarding labourer to be paid by employer.

**203.** Every employer who obtains an order of a Magistrate for the making over or forwarding of any labourer shall be liable to defray the expense (if any) incurred in the making over or forwarding of the labourer; and shall, before the order is issued, deposit with the Magistrate a sum sufficient in the Magistrate's opinion to defray that expense.

Conviction not to operate as a release.

**204.** (1) On the expiry of any sentence of imprisonment passed on a labourer for any offence under this Act, the Magistrate shall, subject to the provisions of section 200, make the labourer over to any person appointed on the part of his employer to take charge of him; and no conviction under this Act or imprisonment thereon shall, save as aforesaid, operate as a release to any labourer from the terms of his labour-contract.

(2) Where no person is present on the part of the employer to take charge of the labourer on the expiry of his sentence, the Magistrate shall forward the labourer to the principal place of business of his employer situate within the local limits of the Magistrate's jurisdiction.

(3) Any expenditure incurred under sub-section (2) may be recovered from the employer of the labourer concerned.

Endorsement on contract of imprisonment for offence against Act.

**205.** (1) Where a labourer is sentenced to imprisonment for any offence under this Act other than an offence under section 193 or section 198, the Magistrate shall endorse on the employer's copy of the labour-contract the term for which the labourer is so sentenced.

(Secs. 206-208.)

(2) When a labourer is convicted of unlawful absence under section 193 or desertion under section 198, the Magistrate shall endorse the period of the labourer's absence or desertion on the employer's copy of the labour-contract.

(3) In a case of desertion falling under sub-section (2) no endorsement shall be made if the labour-contract has been cancelled under section 200, or if more than one year has elapsed from the expiry of the original term of the labour-contract or more than three years have elapsed from the date when the labourer deserted, to the date of his conviction.

(4) The term of imprisonment to which a labourer is sentenced under section 193 or section 198 shall be deducted from the term of service to which he is bound by his original contract or by any endorsement made under sub-section (2).

(5) No endorsement shall be made in a case of desertion under sub-section (2) unless the employer has duly reported the particulars of the desertion as provided in section 194.

**206.** Where a labourer is sentenced to imprisonment for any time not exceeding three years for any offence other than an offence under this Act, the Court or Magistrate so sentencing him shall, if the employer or a person acting on behalf of the employer so requests, endorse on the employer's copy of the labour-contract the period for which the labourer is sentenced to imprisonment, or, if that period exceeds the unexpired term of the labour-contract on the date of the sentence, so much of that period as is equal to the unexpired term.

Endorsement on contract of period of any other imprisonment.

**207.** The periods endorsed under section 205 or section 206 shall be added to the term for which the labourer contracted to serve; and the labourer shall not be deemed to have performed his labour-contract until he has served for the term specified therein in addition to the periods so endorsed.

Periods endorsed to be added to term of contract.

**208.** (1) Whoever, knowing that a labourer is bound by his labour-contract to labour for any employer, voluntarily entices or attempts to entice the labourer to leave his employer, or harbours or employs any labourer who has, in contravention of the terms of his labour-contract, left his employer shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

Other person enticing away, harbouring or employing labourer under labour-contract.

(2) The convicting Magistrate may, in his discretion, award to the employer with whom the labourer has contracted the whole or any part of any fine levied under sub-section (1).

*(Secs. 209-214.)*

Failure to forward contract under section 118 or to cause labourer to appear under section 120.

**209.** Whoever, being bound under section 118, sub-section (2), to forward any labour-contract to the Inspector, or under section 120 to cause any labourer to appear before the Inspector or Magistrate, wilfully omits or neglects so to forward the labour-contract to the Inspector at or within the time specified, or to cause the labourer to appear before the Inspector or Magistrate within a reasonable time, shall be punishable with fine which may extend to two hundred rupees.

Employer or other person neglecting to send labourer before Magistrate as provided by section 146.

**210.** Whoever, being bound by section 146 to send any labourer before or to give notice of any complaint to, an Inspector or Magistrate, refuses or neglects so to send the labourer or to give the notice, shall be punishable with fine which may extend to two hundred rupees.

Employer refusing to endorse labour-contract, etc.

**211.** Whoever, being an employer,—

- (a) refuses or wilfully neglects to endorse the labourer's copy of his labour-contract as required by section 155, or
- (b) detains a labourer after the determination of his labour-contract; or
- (c) fails to give to the Inspector notice in writing of such determination as aforesaid within one month after the date thereof;

shall be punishable with fine which may extend to two hundred rupees.

Employer or other person neglecting to comply with request of labourer wishing to redeem unexpired term.

**212.** Whoever, being an employer or a person acting for an employer refuses or neglects to comply with the request of a labourer made under section 156, shall be punishable with fine which may extend to two hundred rupees.

Abetment.

**213.** Whoever abets, within the meaning of the Indian Penal Code, any offence against this Act or any rule hereunder, shall be punishable with the punishment provided for the offence.

Place of trial for offences.

**214.** Whoever commits any offence against this Act or any rule hereunder shall be triable for the offence in any place in which he may be found, as well as in any other place in which he might be tried under any law for the time being in force.

(Secs. 215-219.)

## CHAPTER X.

### MISCELLANEOUS.

**215.** Every sum recoverable under this Act from any person may be recovered on application to a Magistrate having jurisdiction where the person is for the time being resident, by the distress and sale of any moveable property within the limits of the Magistrate's jurisdiction belonging to that person.

Recovery of sums due under Act.

**216.** All arrears of wages due under any labour-contract shall be a charge upon the estate upon which the labourer to whom the labour-contract relates has been engaged to labour; or, if he has engaged to labour upon any one of several estates managed by the same employer, shall be a charge upon that estate upon which he for the time being actually labours.

Wages due under labour-contract a charge upon estate.

**217.** (1) Whenever an estate on which any labourer has under this Act contracted to labour is transferred by act of parties or operation of law or devolves, the person to whom it is so transferred or on whom it devolves shall be bound by the labour-contract of the labourer in the same manner and to the same extent as the person by or from whom it is transferred or devolves would have been bound thereby, and shall have the same rights and remedies under it as such person would have had thereunder, if the estate had not been transferred or had not devolved.

Owner of estate for time being has all rights and remedies in respect of labour-contracts charged on it.

(2) No person who has ceased to be the owner of the estate upon which any labourer has under this Act contracted to labour shall be liable in respect of any breach of the labour-contract of the labourer which occurs after he has ceased to be owner.

[<sup>1</sup>]**218.** The proceeds of any fines, fees and rates under this Act which may be credited to Government shall be expended, in such manner as the Governor General in Council may direct, on paying the salaries and allowances of officers appointed under this Act and their pensionary and leave allowances, on meeting the cost of sending labourers and other persons back to their native districts, and generally on defraying the expenses of carrying out the purposes and objects of this Act and any rules made thereunder, and not otherwise.

Application of proceeds of fines, fees and rates.

**219.** Every Assistant Inspector shall perform all such duties and exercise all such powers of an Inspector as he is authorized in writing by the Inspector to perform or exercise

Duty of Assistant Inspector.

[<sup>1</sup>] This section was substituted for the original s. 218 by the Assam Labour and Emigration (Amendment) Act, 1908 (11 of 1908), s. , *post*, p. 641.

## (Secs. 220-223. The First Schedule.)

Powers of officers under this Act to be exercisable from time to time.

**220.** All powers conferred by this Act on any Superintendent, Medical Inspector, Emigration Agent or other officer may be exercised from time to time as occasion requires.

Power to exempt labour district from Act

**221.** The Chief Commissioner of Assam may, [1][subject to the control of] the Governor General in Council, by notification in the local official Gazette, declare that any labour-district or local area therein shall, on and with effect from a day to be fixed in the notification, cease to be subject to all the provisions or any specified provision of this Act; and from the day so fixed such labour-district or local area as aforesaid shall cease to be subject to the provisions of this Act or to the provision so specified, as the case may be.

Notifications not to affect prior acts, etc.

**222.** The publication of any notification under this Act shall not affect any act done, offence committed or proceedings commenced before such publication.

Repeal.

**223.** The enactments mentioned in the second Schedule are hereby repealed to the extent specified in the fourth column thereof.

## THE FIRST SCHEDULE.

## FORM OF LABOUR-CONTRACT BETWEEN LABOURER AND EMPLOYER.

(See section 5.)

This contract, made under the Assam Labour and Emigration Act, 1901, between *A B* (hereinafter called the labourer) of the one part and \*[*C D* (representative, local agent or garden-sardar) on behalf of] *E F* (hereinafter called the employer) on the other part, witnesseth that the said \*[representative or local agent or garden-sardar on behalf of the said] employer doth hereby promise the said labourer, that if he, the said labourer, do remain and labour† on the  $\frac{X \text{ estate}}{Y \text{ estates}}$  ‡ of his said employer in the labour district of \_\_\_\_\_ for the term of \_\_\_\_\_ years from the date of the execution of this contract, he, the said employer, will, from the date on which the said labourer commences to labour on the said  $\frac{\text{estate}}{\text{estates}}$ , pay or cause to be paid to the said labourer monthly wages at the rate of Rs. § \_\_\_\_\_ for a completed

[1] See footnote to s. 1 (2) (b), ante.

\* Parts in brackets to be omitted if the contract is made without the intervention of a representative, local agent or garden-sardar.

† State nature of labour, if the labourer is to be required to work under the ground.

‡ As the case may be.

§ State rates for various periods of contract.

*(The First Schedule.)*

daily task regulated in accordance with the provisions of the said Act,\* and, when such task as aforesaid is not completed, monthly wages calculated at the same rate in proportion to the amount of work actually done and that during the said period he, the said employer, will supply to the said labourer rice at a price of Rs.                      per maund and faithfully comply with all rules regarding house-accommodation, medical treatment and the supply of food grains or rations to the said labourer which the Local Government may prescribe; and this contract further witnesseth that the said labourer doth hereby, in consideration of the aforesaid promise, agree so to remain and labour for the said employer. In witness whereof the said parties to these presents have hereunto set their hands at                      this                      day of                      19   .

*Signature of Labourer and of Employer (or of his Representatives; Local Agent or Garden-sardar).*

*Form of Description of Labourer.*

NAME.	Father's name.	Age.	Sex.	Caste.	RESIDING—			Descriptive marks.
					District.	Thana.	Village.	

\* [During the first six months of the contract the employer is to pay a full wage for half the daily task, unless an Inspector certifies that the labourer is able to perform a full task.]

*(The First Schedule. The Second Schedule.)*

*(Endorsement to be filled up by officer before whom the contract is executed.)*

I hereby certify that, before the said A B signed this contract, I personally explained it to him.

*Dated at*

*This            day of*

} Signed \_\_\_\_\_  
*Superintendent or Registering-officer  
 or Inspector or Magistrate.*

*(Endorsements on labourer's copy of contract to be filled up when the contract is determined or cancelled.)*

I hereby certify that the foregoing contract has been determined by effluxion of time.

*Dated at*

*This            day of*

} *Signature of Employer or Inspector.*

I hereby certify that the foregoing contract has been cancelled under the provisions of section            of Act 6 of 1901.

*Dated at*

*This            day of*

} *Signature of Inspector or Magistrate.*

## THE SECOND SCHEDULE.

### ENACTMENTS REPEALED.

*(See section 223.)*

Year.	No.	Short title.	Extent of repeal.
		<i>Acts of the Governor-General in Council.</i>	
1882	1	The Assam Labour and Emigration Act, 1882.	The whole.
1891	12	The Repealing and Amending Act, 1891.	So much of section 2 and schedule as relates to Act 1

*(The Second Schedule.)*

Year.	No.	Short title.	Extent of repeal.
1893	7	The Inland Emigration Act, 1893.	The whole.
1897	5	The Repealing and Amending Act, 1897.	So much of section 2 and of the first and second schedules as relate to Act 1 of 1882 and Bengal Act 1 of 1889.
		<i>Act of the Lieutenant-Governor of Bengal in Council.</i>	
1889	1	The Inland Emigrants Health Act, 1889.	The whole.



ACT 1 OF 1903.

(THE \* \* \* \* \* AMENDING ACT, 1903.)<sup>[1]</sup>

(6th March, 1903)

**An Act to facilitate the citation of certain enactments,  
[<sup>2</sup>] [and] to amend certain enactments \* \* \* [<sup>3</sup>]**

WHEREAS it is expedient to facilitate the citation of the enactments specified in the first Schedule to this Act;

AND WHEREAS it is also expedient that certain formal amendments should be made in the enactments specified in the second Schedule to this Act; \* \* \* \* \*<sup>[3]</sup>

It is hereby enacted as follows:—

- |                                  |  |
|----------------------------------|--|
| Short title                      | 1. This Act may be called the * * * <sup>[3]</sup> Amending Act, 1903  |
| Citation of certain enactments   | 2. Each of the enactments described in the first three columns of the first Schedule may, without prejudice to any other mode of citation, be cited for all purposes by the short title mentioned in that behalf in the fourth column thereof. |
| Amendment of certain enactments. | 3. The enactments specified in the second Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.  |

4 and 5. (*Repeal of certain enactments and savings.*) *Rep. by the Repealing and Amending Act, 1914 (10 of 1914), section 3, Sch. II.*

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[1] LEGISLATIVE PAPERS —For Statement of Objects and Reasons see Gazette of India, 1903, Part V, p. 72, and for Proceedings in Council, see *ibid.* Part VI, pp. 6 and 15

LOCAL EXTENT—Since this Act has no "local extent" clause, it must (so far as applicable) be taken to extend to the whole of British India. It is printed in this Code because portions of the Schedules which affect Bihar and Orissa are omitted from the Act as published in the General Acts, 1898-1909, Ed. 1928, p. 225

The Act is in force in the Angul District—see Vol. IV, Part IV, and the Sonthal Parganas, *ibid.*

[2] The word "and" was inserted by the Repealing and Amending Act, 1914 (10 of 1914), s. 2, Sch. 1, *post*, p. 655

[3] Repealed by *ibid.*, s. 3, Sch. II

(The First Schedule.)

THE FIRST SCHEDULE.\*

SHORT TITLES.

(See section 2.)

Year.	No.	Title or subject.	Short title.
1	2	3	4

Part I.—Regulations of the Bengal Code.

1793	19 [1]	A Regulation for re-enacting, with modifications, the rules passed by the Governor-General in Council on the 1st December, 1790, for trying the validity of the titles of persons holding, or claiming a right to hold, lands exempted from the payment of revenue to Government, under grants not being of the description of those termed <i>badshahi</i> or royal, and for determining the amount of the annual assessment to be imposed on lands so held which may be adjudged or become liable to the payment of public reve-	The Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1793.
	37 [1]	A Regulation for re-enacting, with modifications, the rules passed on the 23rd April, 1788, and subsequent dates, for trying the validity of the titles of persons holding or claiming a right to hold <i>Altamgha</i> , <i>ragi</i> and other lands exempt from the payment of public revenue, under grants termed <i>badshahi</i> or royal; and for determining when certain grants of that description shall be considered to have expired; and for fixing the amount of the public revenue to be assessed upon the lands the grants for which may expire or be adjudged invalid.	The Bengal Revenue-free Lands (Badshahi Grants) Regulation, 1793.

\*Only so much of this Schedule as relates to enactments printed in this Code is reproduced here.

[1] Printed ante.

## (The First Schedule.)

THE FIRST SCHEDULE—*contd.*

Year.	No.	Title or subject.	Short title.
1	2	3	4

Part I.—Regulations of the Bengal Code—*contd.*

1810	19 <sup>[1]</sup>	A Regulation for the due appropriation of the rents and produce of lands granted for the support of mosques, Hindu temples, colleges and other purposes ; for the maintenance and repair of bridges, <i>sarais</i> , <i>kattras</i> and other public buildings ; and for the custody and disposal of <i>nazul</i> property or escheats.	The Bengal Charitable Endowments, Public Buildings and Escheats Regulation, 1810.
1812	5 <sup>[1]</sup>	A Regulation for amending some of the rules at present in force for the collection of the land-revenue.	The Bengal Land-revenue Sales Regulation, 1812.
"	18 <sup>[1]</sup>	A Regulation for explaining section 2, Regulation 5, 1812, and rescinding sections 3 and 4, Regulation 44, 1793. and sections 3 and 4, Regulation 50, 1795, and enacting other rules in lieu thereof.	The Bengal Leases and Land-revenue Regulation, 1812.
1814	29 <sup>[1]</sup>	A Regulation for the settlement of certain <i>mahals</i> in the district of Birbhum usually denominated the <i>Ghatwali mahals</i> .	The Bengal Ghatwali Lands Regulation, 1814.
1816	5 <sup>[1]</sup>	A Regulation for establishing the office of <i>Kamungo</i> in the district of Cuttack, the <i>pargana</i> of Pataspur, and the several <i>parganas</i> dependent on it.	The Bengal Kamungos Regulation, 1816.
*	*	* * * * *	* * * * *
1817	12 <sup>[1]</sup>	A Regulation for securing the better administration of the office of <i>Patwari</i> in the Ceded and Conquered Provinces, the Provinces of Bihar and Benares, the district of Cuttack, the <i>pargana</i> of Pataspur and its dependencies.	The Bengal Patwaris Regulation, 1817.

## (The First Schedule.)

## THE FIRST SCHEDULE—contd.

Year.	No.	Title or subject.	Short title.
1	2	3	4

## Part I.—Regulations of the Bengal Code—contd.

1794	3 [1]	A Regulation for prescribing the process by which <i>Tahsildars</i> are to demand payment of arrears, and for enabling the Collectors to recover from native officers employed under them public money or papers which they may embezzle or retain.	The Bengal Native Revenue-officers Regulation, 1794.
*	*	* * *	* * *
1798	1 [2]	A Regulation to prevent fraud and injustice in conditional sales of land under deeds of <i>bai-bil-wafa</i> or other deeds of the same nature.	The Bengal Land (Conditional Sale) Regulation, 1798.
1800	8 [1]	A Regulation for registers of estates paying revenue, and lands held exempt from the payment of revenue.	The Bengal Revenue-free Lands Regulation, 1800.
1801	1 [1]	A Regulation to explain and amend the rules for the division of joint estates and allotment of the fixed assessment thereupon.	The Bengal Land-revenue Assessment Regulation, 1801.
*	*	* * *	* * *
1805	12 [1]	A Regulation for the settlement and collection of the public revenue in the <i>Zila</i> of Cuttack, including the <i>Parganas</i> of Pataspur, Kamar-dachor and Bhograi, at present included in the <i>Zila</i> of Midnapur.	The Cuttack Land-revenue Regulation, 1805.
„	13 [1]	A Regulation for the maintenance of the peace and for the support and administration of the police in the <i>Zila</i> of Cuttack, and for amending certain provisions contained in Regulation 4, 1804.	The Cuttack Police Regulation, 1805.
*	*	* * *	* * *

[1] Printed *ante*.

[2] Applies to the Sonthal Parganas only. Printed in the Sonthal Parganas Manual, 1911, Ed. 1925, p. 1.

(The First Schedule.)

THE FIRST SCHEDULE—*contd.*

Year.	No	Title or subject.	Short title.
1	2	3	4

*Part I.—Regulations of the Bengal Code—contd.*

1810	19 <sup>[1]</sup>	A Regulation for the due appropriation of the rents and produce of lands granted for the support of mosques, Hindu temples, colleges and other purposes ; for the maintenance and repair of bridges, <i>sarais</i> , <i>kattras</i> and other public buildings, and for the custody and disposal of <i>nazul</i> property or escheats.	The Bengal Charitable Endowments, Public Buildings and Escheats Regulation, 1810.
1812	5 <sup>[1]</sup>	A Regulation for amending some of the rules at present in force for the collection of the land-revenue.	The Bengal Land-revenue Sales Regulation, 1812.
„	18 <sup>[1]</sup>	A Regulation for explaining section 2, Regulation 5, 1812, and rescinding sections 3 and 4, Regulation 44, 1793, and sections 3 and 4, Regulation 50, 1795, and enacting other rules in lieu thereof.	The Bengal Leases and Land-revenue Regulation, 1812.
1814	29 <sup>[1]</sup>	A Regulation for the settlement of certain <i>mahals</i> in the district of Birbhum usually denominated the <i>Ghatwali mahals</i> .	The Bengal Ghatwali Lands Regulation, 1814.
1816	5 <sup>[1]</sup>	A Regulation for establishing the office of <i>Kanungo</i> in the district of Cuttack, the <i>pargana</i> of Pataspur, and the several <i>parganas</i> dependent on it.	The Bengal Kanungos Regulation, 1816.
*	*	* * * * *	* * * * *
1817	12 <sup>[1]</sup>	A Regulation for securing the better administration of the office of <i>Patwari</i> in the Ceded and Conquered Provinces, the Provinces of Bihar and Benares, the district of Cuttack, the <i>pargana</i> of Pataspur and its dependencies.	The Bengal Patwaris Regulation, 1817.

## (The First Schedule.)

THE FIRST SCHEDULE—*contd.*

Year.	No.	Title or subject.	Short title.
1	2	3	4

Part I.—Regulations of the Bengal Code—*contd.*

1817	20[ <sup>1</sup> ]	A Regulation for reducing into one Regulation, with amendments and modifications, the several rules which have been passed for the guidance of <i>darogas</i> and other subordinate officers of police.	The Bengal Police Regulation, 1817.
1819	1[ <sup>1</sup> ]	A Regulation for re-establishing <i>Kanungos</i> and reforming the office of <i>Putwari</i> throughout the Province of Bengal; and for explaining and modifying certain parts of Regulation 12, 1817.	The Bengal <i>Kanungos</i> and <i>Putwaris</i> Regulation, 1819.
"	2[ <sup>1</sup> ]	A Regulation for modifying the provisions contained in the existing Regulations regarding the resumption of the revenue of lands held free of assessment under illegal or invalid tenures and for defining the right of Government to the revenue of lands not included within the limits of estates for which a settlement has been made.	The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819.
1821	4[ <sup>1</sup> ]	A Regulation for explaining the duties of an Assistant Collector of Revenue, and for defining the duties and powers vested in Assistant Collectors or other officers appointed to the charge of the revenues of <i>parganas</i> or other local divisions, or employed in the performance of any portion of the functions ordinarily belonging to the Collectors of land-revenue.	The Bengal Land-revenue (Assistant Collectors) Regulation, 1821.
*	*	* * *	* * *

## (The First Schedule.)

## THE FIRST SCHEDULE—contd.

Year.	No.	Title or subject.	Short title.
1	2	3	4

*Part I.—Regulations of the Bengal Code—contd.*

1822	7[ <sup>1</sup> ]	A Regulation for declaring the principles according to which the settlement of the land-revenue in the Ceded and Conquered Provinces, including Cuttack, Pataspur and its dependencies, is to be hereafter made, and the powers and duties belonging to Collectors or other officers employed in making, revising or superintending settlements; for defining, settling and recording the rights and obligations of various classes and persons possessing an interest in the land, or in the rent or produce thereof; and for vesting the Revenue authorities with judicial cognizance in certain cases of suits and claims relating to land, the rent and produce of land.	The Bengal Land-revenue Settlement Regulation, 1822.
"	11[ <sup>1</sup> ]	A Regulation for declaring Government not to be liable for any errors or irregularities in the proceedings of the Courts of Justice; and for making further provision for the conduct of the Revenue-officers in certain cases.	The Bengal Government Indemnity Regulation, 1822.
1823	6[ <sup>1</sup> ]	A Regulation for authorizing the institution of summary suits to enforce the execution of certain written engagements for the cultivation and delivery of the indigo-plant, and for declaring certain principles in regard to the same.	The Bengal Indigo Contracts Regulation, 1823.
1825	9[ <sup>1</sup> ]	A Regulation for extending the operation of Regulation 7, 1822; for authorizing the Revenue-authorities to let in farm estates under temporary leases, on the default of the <i>malguzars</i> , or to hold the same <i>khas</i> for a term of years; for modifying and adding to the rules contained in Regulation	The Bengal Land-revenue Settlement Regulation, 1825.

## (The First Schedule.)

THE FIRST SCHEDULE—*contd.*

Year.	No.	Title or subject.	Short title.
1	2	3	4
<i>Part I.—Regulations of the Bengal Code—contd.</i>			
1825	9 <sup>[1]</sup>	2, 1819; and for making certain other amendments in the existing Regulations	
„	13 <sup>[1]</sup>	A Regulation to maintain the settlement made for certain lands held exempt from the payment of revenue by <i>Kanungos</i> in the Province of Bihar, and to provide for the future settlement of such lands, as well as of the lands composing other resumed <i>lakhtas</i> tenures with the present occupants, when so directed by Government.	The Bengal Land-revenue Settlement (Resumed <i>Kanungos</i> and Revenue free Lands) Regulation, 1825.
	14 <sup>[1]</sup>	A Regulation to declare the extent of the authority possessed by the Revenue authorities, subordinate to the Governor-General in Council, in the confirmation of <i>lakhtas</i> tenures; to define the principles to be followed in determining on the force and validity of grants made by persons exercising authority in different quarters previously to the acquisition of the country by the British Government, and to provide for the due application of the general laws and regulations respecting lands held free of assessment to the territory ceded by Govind Rao to the British Government, and annexed to the <i>Zila</i> of Bundelkhand, under the provisions of Regulation 2, 1818	The Bengal Revenue-free Lands Regulation, 1825
1828	3 <sup>[1]</sup>	A Regulation for the appointment of Special Commissioners for the more speedy hearing and determination of appeals from the decisions of the Revenue-authorities in regard to lands or rents occupied or collected by individuals, without payment of the revenue demandable by Government under the general law of the	The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1828.



## (The First Schedule.)

## THE FIRST SCHEDULE—contd.

Year.	No.	Title or subject.	Short title.
1	2	3	4
<i>Part I.—Regulations of the Bengal Code—contd.</i>			
1828	3	country; and for otherwise more effectually securing the realization of the public dues.	
"	4[1]	A Regulation to declare and extend the powers to be exercised by Collectors when making or revising settlements under the provisions of Regulation 7, 1822.	The Bengal Land-Revenue Settlement Regulation, 1828.
*	*	* * *	* * *
1829	1[1]	A Regulation for constituting Commissioners of Revenue and Circuit; for establishing a <i>Sadar</i> Board of Revenue; for modifying the constitution of the Provincial Courts; for transferring to the said Commissioners the functions now exercised by the Superintendents of Police and those of the <i>mufussal</i> Special Commissioners acting under the provisions of Regulation 1, 1821; and otherwise for providing for the better administration of Civil and Criminal Justice.	The Bengal Revenue Commissioners Regulation, 1829.
1830	5[1]	A Regulation relating to the cultivation and delivery of Indigo-plant.	The Bengal Indigo Contracts Regulation, 1830.
1833	9[1]	A Regulation to modify certain portions of Regulation 7 of 1822 and Regulation 4 of 1828; to provide for the more speedy and satisfactory decision of judicial questions cognizable by officers of revenue employed in making settlements under the above Regulations; for enforcing the production of the village accounts; for the more extensive employment of	The Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1833.

## (The First Schedule.)

THE FIRST SCHEDULE—*contd*

Title or subject.

Short title.

*Part I.—Regulations of the Bengal Code—*concl*d.*

1833	9[ <sup>1</sup> ]	Native agency in the Revenue Department; and to declare the intent of section 5, Regulation 7 of 1822, touching claims to <i>malikana</i>
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*Part II.—Acts of the Governor General in Council.*

1836	10[ <sup>1</sup> ]	Indigo Contracts	The Bengal Indigo Contracts Act, 1836.
„	21[ <sup>1</sup> ]	Districts	The Bengal Districts Act, 1836.
1841	12[ <sup>1</sup> ]	An Act for amending the Bengal Code in regard to sales of land for arrears of revenue.	The Bengal Land-revenue Sales Act, 1841.
1847	9[ <sup>1</sup> ]	An Act regarding the assessment of lands gained from the sea or from rivers by alluvion or dereliction within the Provinces of Bengal, Bihar and Orissa.	The Bengal Alluvion and Diluvion Act, 1847
1848	20[ <sup>1</sup> ]	An Act for better enforcing the attendance of proprietors and farmers of land before Collectors of land-revenue in the Lower Provinces of the Bengal Presidency	The Bengal Landholders' Attendance Act, 1848.
*	*	* * *	* * *
1855	32[ <sup>1</sup> ]	An Act relating to Embankments.	The Bengal Embankment Act, 1855.
„	37[ <sup>1</sup> ]	An Act to remove from the operation of the General Laws and Regulations certain districts inhabited by Sonthals and others, and to place the same under the superintendence of an officer to be specially appointed for that purpose.	The Sonthal Parganas Act, 1855.
*	*	* * *	*

[<sup>1</sup>] Printed *ante*.

(The First Schedule.)

## THE FIRST SCHEDULE—contd.

Year.	No.	Title or subject.	Short title.
1	2	3	4

## Part II.—Acts of the Governor General in Council—concl'd.

1857	10 <sup>[2]</sup>	An Act to amend Act 37 of 1855.	The Sonthal Parganas Act, 1857.
"	13 <sup>[1]</sup>	An Act to consolidate and amend the law relating to the cultivation of the poppy and the manufacture of opium in the Presidency of Fort William in Bengal.	The Opium Act, 1857.
* 1858	* 31 <sup>[1]</sup>	* An Act to make further provision for the settlement of land gained by alluvion in the Presidency of Fort William in Bengal.	* The Bengal Alluvial Land Settlement Act, 1858.
1859	5 <sup>[2]</sup>	An Act to empower the holders of <i>ghâtvali</i> lands in the district of Birbhum to grant leases extending beyond the period of their own possession.	The Bengal Ghâtvali Lands Act, 1859.
"	* 11 <sup>[1]</sup>	* An Act to improve the law relating to sales of land for arrears of revenue in the Lower Provinces under the Bengal Presidency.	* The Bengal Land-revenue Sales Act, 1859.
*	*	*	*
*	*	*	*
1881	7 <sup>[1]</sup>	An Act to amend Bengal Act No. 9 of 1880 (the Cess Act, 1880).	The Bengal Cess (Amendment No. 1) Act, 1881.
* 1884	* 5 <sup>[1]</sup>	* An Act to amend the Chota Nagpur Encumbered Estates Act, 1876.	* The Chota Nagpur Encumbered Estates (Amendment) Act, 1884.
1886	8 <sup>[2]</sup>	An Act to amend sections 12 and 13 of the Bengal Tenancy Act, 1885.	The Bengal Tenancy (Amendment) Act, 1886.
*	*	*	*

(The First Schedule.)

THE FIRST SCHEDULE—*contd*

Year	No.	Title or subject	Short title
1	2	3	
<i>Part III —Bengal Acts.</i>			
1862	3[ <sup>1</sup> ]	An Act to amend Act 11 of 1859 (to improve the law relating to sales of land for Arrears of Revenue in the Lower Provinces under the Bengal Presidency)	The Bengal Land-revenue Sales (Amendment) Act, 1862
	7[ <sup>1</sup> ]	An Act to repeal section 30 of Regulation 2, 1819 (for modifying the provisions contained in the existing Regulations regarding the Resumption of the revenue of lands held free of assessment under illegal or invalid tenures, and for defining the right of Government to the revenue of lands not included within the limits of estates for which a settlement has been made)	The Bengal Land-revenue Resumption Act, 1862
1864	4[ <sup>1</sup> ]	An Act to amend Act 21 of 1836	The Bengal Districts Act, 1864.
1865	8[ <sup>1</sup> ]	An Act to amend the law for the sale of such under-tenures as by the title deeds or established usage of the country are transferable by sale or otherwise for the recovery of arrears of rent due in respect thereof.	The Bengal Rent Recovery (Under-tenures) Act, 1865
1866	3[ <sup>1</sup> ]	An Act to provide for the attendance and examination of witnesses before the Council of the Lieutenant Governor of Bengal for making Laws and Regulations	The Bengal Legislative Council (Witnesses) Act, 1866

[<sup>1</sup>] Printed in Vol. II of this Code.

## (The First Schedule.)

## THE FIRST SCHEDULE—contd.

Year.	No.	Title or subject.	Short title.
<i>Part III.—Bengal Acts—contd.</i>			
1866	7 <sup>[1]</sup>	An Act to make better provision for the acquisition of land for embankments, and other matters relating thereto.	The Bengal Embankment Act, 1866.
1867	2 <sup>[1]</sup>	An Act to provide for the punishment of public gambling and the keeping of common gaming-houses in the territories subject to the Lieutenant-Governor of Bengal.	The Bengal Public Gambling Act, 1867.
"	3 <sup>[1]</sup>	An Act to amend the law relating to ships lying in ports in the Provinces under the control of the Lieutenant-Governor of Bengal.	The Bengal Ports Act, 1867.
"	4 <sup>[1]</sup>	An Act to explain and amend Act 6 of 1862, passed by the Lieutenant-Governor of Bengal in Council, and to give validity to certain judgments.	The Bengal Rent (Appeals) Act, 1867.
1868	3 <sup>[1]</sup>	An Act to amend the law respecting appeals in cases under Regulation 7 of 1822.	The Bengal Land-revenue Settlement Act, 1868.
"	4 <sup>[1]</sup>	An Act to amend the provisions of Act 9 of 1847 (an Act regarding the assessment of lands gained from the sea or from rivers by alluvion or dereliction within the Provinces of Bengal, Bihar and Orissa).	The Bengal Alluvion (Amendment) Act, 1868.
"	7 <sup>[1]</sup>	An Act to make further provision for the recovery of arrears of land-revenue and public demands recoverable as arrears of land-revenue.	The Bengal Land-revenue Sales Act, 1868.
1869	1 <sup>[1]</sup>	An Act for the Prevention of Cruelty to Animals.	The Bengal Cruelty to Animals Act, 1869.
"	3 <sup>[1]</sup>	An Act to enable Police-officers to arrest without warrant persons guilty of cruelty to animals.	The Bengal Cruelty to Animals (Amendment) Act, 1869.

[<sup>1</sup>] Printed in Vol. II of this Code.

[\*] Virtually repealed by the Prevention of Cruelty to Animals Act, 1903.

(The First Schedule.)

THE FIRST SCHEDULE—*contd.*

Year.	No.	Title or subject.	Short title.
1	2	3	4
<i>Part III.—Bengal Acts—contd</i>			
1869	7 <sup>[1]</sup>	An Act to amend the constitution of the Police-force in Bengal	The Bengal Police Act, 1869.
1871	1 <sup>[1]</sup>	An Act to amend the Village Chaukidari Act, 1870	The Bengal Village Chaukidari Act, 1871.
"	2 <sup>[1]</sup>	An Act to amend the procedure for the recovery of arrears of land-revenue in respect of tenures not being estates.	The Bengal Land-revenue Sales (Amendment) Act, 1871.
1873	1 <sup>[1]</sup>	An Act to amend the Salt Act, 1864.	The Bengal Salt Act, 1873.
"	4 <sup>[1]</sup>	An Act for registering Births and Deaths.	The Bengal Births and Deaths Registration Act, 1873
1876	1 <sup>[1]</sup>	An Act to provide for the voluntary Registration of Muhammadan Marriages and Divorces	The Bengal Muhammadan Marriages and Divorces Registration Act, 1876.
*	*	* * *	* *
1878	5 <sup>[1]</sup>	An Act to amend Bengal Act 7 of 1876.	The Bengal Land Registration (Amendment) Act, 1878
*	*	* * *	* *
*	*	* * *	* *
1879	8 <sup>[2]</sup>	An Act to define and limit the powers of Settlement officers.	The Bengal Rent Settlement Act, 1879.
*	*	* * *	* *
1881	2 <sup>[1]</sup>	An Act to amend the Cess Act, 1880.	The Bengal Cess (Amendment No 2) Act, 1881.
"	3 <sup>[1]</sup>	An Act to amend the Court of Wards Act, 1879.	The Bengal Court of Wards (Amendment) Act, 1881
*	*	* * *	* *
*	*	* * *	* *
1886	1 <sup>[1]</sup>	An Act to further amend the Village Chaukidari Act, 1870.	The Bengal Village Chaukidari (Amendment) Act, 1886
*	*	* * *	* *

[<sup>1</sup>] Printed in Vol. II of this Code.[<sup>2</sup>] Virtually repealed in the Provinces of Bihar and Orissa. Not printed in this Code.

(The First Schedule The Second Schedule.)

## THE FIRST SCHEDULE—concl'd

Year	No	Title or subject.	Short title.
1	2	3	4

## Part III —Bengal Acts—concl'd.

1887	2 <sup>[1]</sup>	An Act to amend Bengal Act 5 of 1880.	The Bengal Vaccination (Amendment) Act, 1887.
*	*	*	*
1890	2 <sup>[1]</sup>	An Act to amend the Bengal Vaccination Act, 1880.	The Bengal Vaccination (Amendment) Act, 1890.
1892	1 <sup>[1]</sup>	An Act to further amend the Village Chaukidari Act, 1870.	The Bengal Village Chaukidari (Amendment) Act, 1892.
*	*	*	*
1899	2 <sup>[2]</sup>	An Act to repeal the Civil Courts Amins Act, 1856, in Bengal.	The Bengal Civil Courts Amins Act, 1899.

THE SECOND SCHEDULE.<sup>[2]</sup>

## AMENDMENTS.

(See section 3.)

Year.	No.	Subject or short title.	Amendments.
1	2	3	4

## Part I.—Regulations of the Bengal Code.

1793	2 <sup>[3]</sup>	The Bengal Land-revenue Regulation, 1793.	In section 18, after Collector insert or.
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<sup>[1]</sup> Printed in Vol. II of this Code.<sup>[2]</sup> Only so much of this Schedule as relates to the enactments printed in this Code is reproduced here.<sup>[3]</sup> Printed ante.

## (The Second Schedule)

THE SECOND SCHEDULE - *contd*

Year	No	Subject or short title	Amendments
<i>Part I—Regulations of the Bengal Code—contd</i>			
1793	2[1]	The Bengal Land-revenue Regulation, 1793— <i>contd</i>	<p>In sections 36, 38, 39, 40, 42, 43, and 45, the words Governor General in Council, wherever they occur, shall be read as if the word Local Government were substituted therefor.</p> <p>In section 40, the word him shall be read as if the word it were substituted therefor.</p> <p>In section 45, the word him shall be read as if the word it were substituted therefor.</p>
	8[1]	The Bengal Decennial Settlement Regulation, 1793	<p>In section 20 the words Governor General in Council shall be read as if the words Local Government were substituted therefor.</p> <p>In section 21, the word Government shall be read as if the words the Local Government were substituted therefor.</p>
	19[1]	Revenue free Lands (Non-Badshahi Grants).	<p>In sections 2, 3, 8 and 15, the words Governor General in Council, wherever they occur, shall be read as if the words Local Government were substituted therefor.</p> <p>In section 2, clause fourth, the word him shall be read as if the word it were substituted therefor.</p> <p>In section 10, the words Governor-General in Council, shall be read as if the words Governor-General in Council or the Local Government were substituted therefor.</p> <p>In section 15, the word him, where it last occurs, shall be read as if the word it were substituted therefor.</p>
	37[1]	Revenue-free Lands (Badshahi Grants)	<p>In sections 2, 3, 8 and 10 the words Governor-General in Council, wherever they occur, shall be read as if the words Local Government were substituted therefor.</p> <p>In section 10, the word him, where it last occurs, shall be read as if the word it were substituted therefor.</p>

[1] Printed ante.



(The Second Schedule.)

## THE SECOND SCHEDULE—contd.

Year.	No.	Subject or short title.	Amendments.
1	2	3	4
1799	5 <sup>[1]</sup>	The Bengal Wills and Intestacy Regulation, 1799.	In section 7, the words Governor General in Council <sup>[2]</sup> shall be read as if the words Local Government were substituted therefor, and the word his where it last occurs, shall be read as if the word its were substituted therefor.
1805	12 <sup>[1]</sup>	Land-revenue, Cuttack ..	In sections 18, 20, 26, 28 and 30, the words Governor-General in Council, wherever they occur, shall be read as if the words Local Government were substituted therefor.  In section 18, clause Third, the word himself shall be read as if the word itself were substituted therefor.  In section 18, clause Fifth, the word him shall be read as if the word it were substituted therefor.  In section 22, for through the Board of Revenue for the information of the Governor-General in Council substitute to the Board of Revenue.
..	13 <sup>[1]</sup>	Police, Cuttack ..	In section 3, the words the Governor-General in Council, by an order in Council, shall be read as if the words the Local Government, by notification in the Calcutta Gazette, were substituted therefor.  In section 4, clause Fourth, the words Governor-General in Council shall be read as if the words Local Government were substituted therefor.
1810	19 <sup>[1]</sup>	Charitable Endowments, Public Buildings and Escheats.	In section 3, for those Boards substitute the Board of Revenue.

[<sup>1</sup>] Printed ante.

[<sup>2</sup>] This amendment was repealed and the words "Board of Revenue, or, in Assam to the Local Government for its" were substituted for the words "Governor General in Council for his" by the Decentralisation Act, 1914 (4 of 1914), s. 2, Sch. Part III, par. pp. 651 and 654.

(The Second Schedule.)

THE SECOND SCHEDULE—*contd.*

Year.	No.	Subject or short title.	Amendments
1	2	3	4

Part I.—Regulations of the Bengal Code—*contd.*

1810	19 <sup>[1]</sup>	Charitable Endowments, Public Buildings and Escheats— <i>concl'd.</i>	<p>In section 4, for Boards substitute Board.</p> <p>In section 8, for those Boards respectively substitute the Board</p> <p>In section 9, the words Governor-General in Council shall be read as if the words Local Government were substituted therefor.</p> <p>In section 12, for superior Boards substitute Board of Revenue, and for Boards substitute Board.</p> <p>In section 13, for superior Board substitute Board of Revenue.</p>
1812	5 <sup>[1]</sup>	Land-revenue Sale ..	In section 25, the words Governor-General in Council shall be read as if the words Local Government were substituted therefor.
„	11 <sup>[1]</sup>	The Bengal Foreign Immigrants Regulation, 1812.	At the end of section 5, for the said Regulation substitute this Regulation.
1814	29 <sup>[1]</sup>	Ghâtwalî Lands ..	In section 5, the words Governor-General in Council, wherever they occur, shall be read as if the words Local Government were substituted therefor.
1816	5 <sup>[1]</sup>	Kanungos .. ..	In sections 5 and 11, the words Governor-General in Council, wherever they occur, shall be read as if the words Local Government were substituted therefor.
*	*	* * *	* * *
1817	12 <sup>[1]</sup>	Patwâris .. ..	In section 18, the words Governor-General in Council shall be read as if the words Local Government were substituted therefor.

of 1903.]

The \* \* \* Amending Act, 1903.

(The Second Schedule.)

THE SECOND SCHEDULE—contd.

Year.	No.	Subject or short title	Amendments
1	2	3	4

Part I.—Regulations of the Bengal Code—contd.

1819	1[ <sup>1</sup> ]	Kánungos and Pátwáris ..	In section 4, the words Governor-General in Council, wherever they occur, shall be read as if the words Local Government were substituted therefor.  In section 4, clause <i>Third</i> , the word he shall be read as if the word it were substituted therefor
"	2[ <sup>1</sup> ]	Land-revenue Assessment (Resumed Lands)	In section 13, clause <i>Third</i> , and in section 14, the words Governor-General in Council shall be read as if the words Local Government were substituted therefor.  In section 21, clause <i>Second</i> , for Boards substitute Board
"	8[ <sup>1</sup> ]	The Bengal Patni Taluks Regulation, 1819.	In section 9, and in section 14, clause <i>Second</i> , for notes of the Bank of Bengal substitute currency notes.
1820	1[ <sup>1</sup> ]	The Bengal Patni Taluks Regulation, 1820.	In section 2, for the General Regulations substitute Law.
1821	4[ <sup>1</sup> ]	Land-revenue (Assistant Collectors).	In section 7, for by the Regulations substitute by law, and for the Regulations already in force substitute the law for the time being in force  In section 8, the words Governor-General in Council, wherever they occur, shall be read as if the words Local Government were substituted therefor.  In section 8, clause <i>Fifth</i> , for by the Regulations substitute by the laws, and for to the Regulations substitute to law.
	*	* * *	* * *

(The Second Schedule.)

THE SECOND SCHEDULE—*contd.*

Year.	No.	Subject or short title.	Amendments.
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*Part I.—Regulations of the Bengal Code—contd.*

1822	7 <sup>[1]</sup>	Land-revenue Settlement ..	<p>In section 2, clause <i>Sixth</i>, for the words as aforesaid, where they first occur, substitute acknowledged as the proprietor or possessor of a permanent interest in the <i>mahal</i> for which he has engaged.</p> <p>In section 3, the words Governor-General in Council, wherever they occur, shall be read as if the words Local Government were substituted therefor, and the words by an Order in Council shall be read as if the words by notification in the local official Gazette were substituted therefor.</p> <p>In section 5, section 6, clause <i>Second</i>, section 7, clause <i>First</i>, section 8, section 9, clause <i>Third</i>, section 10, clauses <i>First</i> and <i>Third</i>, and sections 16, 17 and 32, the words Governor-General in Council, wherever they occur, shall be read as if the words Local Government were substituted therefor; and in section 35, the words Governor-General in Council, in the second place where they occur, shall be read as if the words Local Government were substituted therefor.</p> <p>In section 8, clause <i>Third</i>, for Boards substitute Board, and for such a Board substitute that Board.</p> <p>In section 10, clause <i>Ninth</i>, section 16, proviso, and section 32, for the word Boards, wherever it occurs, substitute Board.</p>
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[<sup>1</sup>] Printed ante.

(The Second Schedule.)

THE SECOND SCHEDULE—*contd*

Year	No	Subject or short title	Amendments
1	2	3	4

*Part I —Regulations of the Bengal Code—contd*

1822	7[1]	Land-revenue Settlement <i>concl'd</i>	<p>In section 13, for Regulation substitute law</p> <p>In section 20, clause <i>First</i>, the words the Government by an Order in Council shall be read as if the words the Local Government by notification in the local official Gazette were substituted therefor, the word he shall be read as if the word it were substituted therefor, and the word Government shall be read as if the words the Local Government were substituted therefor</p> <p>In section 20, clause <i>Second</i>, the words Governor-General in Council and the words Governor-General shall be read as if the words Local Government were substituted therefor, and the words by an Order in Council shall be read as if the words by notification in the local official Gazette were substituted therefor</p> <p>In section 23, clause <i>First</i>, for other Regulation substitute other law.</p> <p>In section 24, clause <i>Second</i>, for the existing Regulations substitute any other law</p> <p>In section 26, for such suits substitute suits the cognizance of which is hereby vested in Collectors.</p>
1825	9[1]	Land-revenue Settlement	<p>In section 3, section 4, section 5, clause <i>Eighth</i>, section 6 and section 8, the words Governor-General in Council, wherever they occur, shall be read as if the words Local Government were substituted therefor.</p>

(The Second Schedule.)

THE SECOND SCHEDULE *contd.*

Year.	No.	Subject or short title.	Amendment.
1	2	3	4

*Part I—Regulations of the Bengal Code—contd.*

1825	9 <sup>[1]</sup>	Land-revenue Settlement — <i>concl.</i>	<p>In section 3, <i>after</i> <i>shall</i> insert <i>or</i>.</p> <p>In section 6, <i>the words</i> and Order in Council <i>shall be read as if the words</i> notification in the local official Gazette <i>were substituted therefor</i>.</p> <p>In section 8, <i>for the words</i> rules <i>respectively substitute</i> section.</p>
„	13 <sup>[1]</sup>	Land-revenue Settlement ..	<p>In sections 2 and 5, <i>the words</i> Governor-General in Council, <i>wherever they occur, shall be read as if the words</i> Local Government <i>were substituted therefor</i>.</p> <p>In the first paragraph of section 2, <i>the word</i> he <i>shall be read as if the word</i> it <i>were substituted therefor</i>.</p> <p>In section 3, <i>for</i> Regulations <i>substitute</i> law.</p>
„	14 <sup>[1]</sup>	Revenue-free Lands ..	<p>In section 1 and section 3, clause <i>Fifth</i>, <i>for</i> Regulations 8 <i>and substitute</i> Regulation.</p> <p>In sections 2 and 3, <i>the words</i> Governor-General in Council, <i>wherever they occur, shall be read as if the words</i> Local Government <i>were substituted therefor</i>.</p> <p>In section 3, clause <i>Fifth</i>, <i>the word</i> his, <i>where it last occurs, shall be read as if the word</i> its <i>were substituted therefor</i>.</p> <p>In section 6, <i>for</i> Revenue Boards <i>substitute</i> Board of Revenue, <i>and for these Boards substitute</i> that Board.</p>

## (The Second Schedule)

## THE SECOND SCHEDULE—contd.

Year	No.	Subject or short title	Amendments
1	2	3	4
<i>Part I—Regulations of the Bengal Code—concl'd.</i>			
1827	3 <sup>[1]</sup>	The Bengal Corruption and Extortion Regulation, 1827.	In section 5, for a Court of Circuit or the Nizamat Adalat <i>substitute</i> the Court
"	5 <sup>[1]</sup>	The Bengal Attached Estates Management Regulation, 1827	In section 3, for several Regulations <i>substitute</i> Regulation
1828	3 <sup>[1]</sup>	Land-revenue Assessment (Resumed Lands)	In section 10, clauses <i>Second</i> and <i>Third</i> , for Boards <i>substitute</i> Board
"	4 <sup>[1]</sup>	Land-revenue Settlement ..	In section 13, clause <i>First</i> , the words Governor General in Council and the word <i>he</i> shall be read as if the words Local Government and the word <i>it</i> were respectively substituted therefor
"	4 <sup>[1]</sup>	Land-revenue Settlement ..	In section 2, clause <i>Fourth</i> , for aforesaid <i>substitute</i> vested with the powers of a Collector
1833	9 <sup>[1]</sup>	Land-revenue (Settlement and Deputy Collectors)	In the title for Regulations <i>substitute</i> Regulation, and in section 1, for those Regulations <i>substitute</i> that Regulation
			In sections 12 and 13, for Boards <i>substitute</i> Board
			In section 16, the words Governor-General in Council shall be read as if the words Local Government were substituted therefor

*Part II—Acts of the Governor General in Council.*

1836	21 <sup>[1]</sup>	Districts	The words the Governor General in Council by an Order in Council shall be read as if the words the Local Government, <sup>[2]</sup> * * * by notification in the local official Gazette were substituted therefor.
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<sup>[1]</sup> Printed ante.<sup>[2]</sup> The words "with the previous sanction of the Governor General in Council" were repealed by the Devolution Act, 1920 (38 of 1920), s. 2 and first Schedule, *post*, p. 678, and are omitted.

(The Second Schedule.)

## THE SECOND SCHEDULE—contd.

Year.	No.	Subject or short title.	Amend
1	2	3	
<i>Part II.—Acts of the Governor General in Council—contd.</i>			
1859	11 <sup>[1]</sup>	Land-revenue Sales	<p>In section 22, after post bills insert currency notes.</p> <p>In section 32, for section 25 substitute section 2 of the Bengal Land-revenue Sales Act, 1868.</p> <p>In section 33, for section 25 of this Act substitute section 2 of the Bengal Land-revenue Sales Act, 1868.</p>
	*	* * *	* *
1867	3 <sup>[2]</sup>	The Public Gambling Act, 1867.	<p>In the title, for the Central Provinces and British Burma substitute and the Central Provinces.</p> <p>In the preamble, for of the Chief Commissioner of the Central Provinces and of the Chief Commissioner of British Burma substitute and of the Chief Commissioner of the Central Provinces.</p> <p>In section 1, for the definitions of Lieutenant-Governor and Chief Commissioner substitute the following, namely :-</p> <p>“Lieutenant-Governor” means the Lieutenant-Governor of the United Provinces of Agra and Oudh or of the Punjab as the case may be :</p> <p>“Chief Commissioner” means the Chief Commissioner of the Central Provinces or of the North-West Frontier Province, as the case may be.</p>

<sup>[1]</sup> Printed ante.<sup>[2]</sup> Act 3 of 1867 applies only to the district of Sambalpur and is printed in the Supplement to this Code.



(The Second Schedule.)

THE SECOND SCHEDULE—*contd.*

Year.	No.	Subject or short title.	Amendments.
		3	4

*Part II.—Acts of the Governor General in Council—concl'd.*

1879	14 <sup>[1]</sup>	The Hackney-Carriage Act, 1879.	In section 3, for The Lieutenant-Governors of the North-Western Provinces and the Punjab and the Chief Commissioners of Oudh, the Central Provinces, British Burma, <i>substitute</i> The Lieutenant-Governor of the United Provinces of Agra and Oudh, the Punjab and Burma, and the Chief Commissioner of the Central Provinces.
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*Part III.—Bengal Acts.*

*	*	*	*	*	*	*	*	*	*
1869	1 <sup>[2]</sup>	Cruelty to Animals	..	In section 9, for the said Act 2 of 1866 <i>substitute</i> Bengal Act 2 of 1866.					
1876	3 <sup>[3]</sup>	The Bengal Irrigation Act, 1876.		In section 95, for as a demand under section 1 of the aforesaid Bengal Act 7 of 1868, <i>substitute</i> under the procedure provided by the Public Demands Recovery Act, 1895, for the recovery of public demands.					
1880	9 <sup>[4]</sup>	The Cess Act, 1880	..	In section 29, Example B, for rate <i>substitute</i> ratio.					
*	*	*	*	*	*	*	*	*	*
1885	3 <sup>[5]</sup>	The Bengal Local Self-Government Act, 1885.		In section 45, for such district <i>substitute</i> any district in which this Act is in force.					
				In the reference to section 9 of Bengal Act 9 of 1880 in the second schedule for 111 <i>substitute</i> 109.					
*	*	*	*	*	*	*	*	*	*

[<sup>1</sup>] Act 14 of 1879 applies only to the district of Sambalpur and is printed in the Supplement to this Code.

[<sup>2</sup>] Printed in Vol. II of this Code.

*(The Second Schedule The Third Schedule)*

## THE SECOND SCHEDULE—concl'd.

Year.	No.	subject or short title	Amendments
1	2	3	4

*Part III —Bengal Acts—concl'd.*

1890	2[1]	Vaccination (amending Bengal Act 5 of 1880)	In sections 2 and 3, after Suburban insert of Calcutta.
*	*	* * *	* * *

## THE THIRD SCHEDULE.

## REPEALS.

*(See section 4)**Repealed by the Repealing and Amending Act, 1914 (10 of 1914), section 3, Schedule II*

[1] Printed in Vol. II of this Code.

ACT 11 OF 1908.

[THE ASSAM LABOUR AND EMIGRATION (AMENDMENT) ACT, 1908.][<sup>1</sup>]

(11th September, 1908.)

An Act to amend the Assam Labour and Emigration Act, 1901.<sup>[2]</sup>

6 of 1901. WHEREAS it is expedient to amend the Assam Labour and Emigration Act, 1901;<sup>[2]</sup> It is hereby enacted as follows.—

1. This Act may be called the Assam Labour and Emigration Short title. (Amendment) Act, 1908.

6 of 1901. 2. For section 91 of the Assam Labour and Emigration Act, 1901, the following shall be substituted, namely :—

91. [Printed *ante*, p. 570.]

Substitution  
of new sec-  
tion for  
section 91,  
Act 6, 1901.

3. For section 218 of the said Act the following shall be substituted, namely :—

218. [Printed *ante*, p. 611.]

Substitution  
of new  
section for  
section 218,  
Act 6 of  
1901.

[1] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, *see* Gazette of India, 1908, Part V, p. 283 ; and for Proceedings in Council, *see* *ibid*, Part VI, pp. 142 and 150.

LOCAL EXTENT.—The local extent of this Act is the same as that of Act 6 of 1901, as to which *see* foot-note [1] on p. 554, *ante*.

[2] Printed *ante*, p. 554.

## ACT 1 OF 1911.

[THE OPIUM (AMENDMENT) ACT, 1911][<sup>1</sup>].

(5th January, 1911.)

### An Act further to amend the Opium Act, 1857.[<sup>2</sup>]

WHEREAS it is expedient further to amend the Opium Act, 13 of 1857 1857;[<sup>3</sup>] It is hereby enacted as follows —

Short title.

1. This Act may be called the Opium (Amendment) Act, 1911.

Amendment  
of Act 13  
of 1857,  
section 3.

[<sup>3</sup>]2. In section 3 of the Opium Act, 1857,[<sup>2</sup>] for the words “ in 13 of 1857. Calcutta ” the words “ of the United Provinces of Agra and Oudh ” shall be substituted.

Continuance  
of orders  
issued by  
Board of  
Revenue,  
Calcutta.

3. Every order or direction issued, regulation made, sanction given or other thing lawfully done under the said Act by the Board of Revenue in Calcutta shall, after the commencement of this Act, be deemed to have been issued, made, given or done by the Board of Revenue of the United Provinces of Agra and Oudh.

Ratification  
of orders  
already  
issued by  
Board of  
Revenue,  
United  
Provinces.

4. Any order or direction, regulation, sanction or other thing purporting to have been issued, made, given or done under the said Act by the Board of Revenue of the United Provinces of Agra and Oudh prior to the commencement of this Act is hereby ratified and confirmed.

[1] LEGISLATIVE PAPERS.—For Proceedings in Council, see Gazette of India, 1911, Part VI, p. 35.

LOCAL EXTENT.—The local extent of this Act is the same as that of Act 13 of 1857, as to which see foot-note on p. 334, *ante*.

[2] Printed *ante*, p. 334.

[3] S. 2 has been virtually repealed by Act 27 of 1925, s. 2 and Sch., para. 1, *post*, p. 691.

ACT 16 OF 1911.

[THE BENGAL, AGRA AND ASSAM CIVIL COURTS (AMENDMENT) ACT,  
1911.][<sup>1</sup>]

(18th September, 1911.)

**An Act further to amend the Bengal, North-Western Provinces and  
Assam Civil Courts Act, 1887.**[<sup>2</sup>]

WHEREAS it is expedient further to amend the Bengal, North-  
2 of 1887. Western Provinces and Assam Civil Courts Act, 1887;[<sup>2</sup>] It is hereby  
enacted as follows:—

1. This Act may be called the Bengal, Agra and Assam Civil Courts Short title  
(Amendment) Act, 1911.

2. In sub-section (1) of section 1 of the Bengal, North-Western Amendment  
2 of 1887. Provinces and Assam Civil Courts Act, 1887,[<sup>2</sup>] for the words “ North- of section 1  
Western Provinces ” the word “ Agra ” shall be substituted. (1), Act 12,  
1887.

3. In sub-section (1) of section 8 of the said Act, the words “ and Amendment  
with the previous sanction of the Governor-General in Council ” are of section  
hereby repealed. 8 (1), Act  
12, 1887.

4. In section 25 of the said Act, for the words “ one hundred Amendment  
rupees ” the words “ two hundred and fifty rupees ” shall be substituted. of section  
25, Act 12,  
1887.

[1] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Gazette of  
India, 1911, Part V, p. 113; for Proceedings in Council, see *ibid*, Part VI, pp. 634, 654.

LOCAL EXTENT.—The local extent of this Act is the same as that of Act 12 of 1887,  
as to which see foot-note [1] on p. 514, *ante*.

[2] Printed *ante*, p. 514.

## ACT 7 OF 1912.

(THE BENGAL, BIHAR AND ORISSA AND ASSAM LAWS ACT, 1912.)<sup>[1]</sup>

(26th March, 1912.)

**An Act to make certain provisions regarding the application of the law in force in (the Presidency of Fort William in Bengal,) the Province of Bihar and Orissa [and the Province of Assam].**

[WHEREAS a Governor and an Executive Council have been appointed<sup>[2]</sup> for the Presidency of Fort William in Bengal;

AND WHEREAS, by Proclamation published under Notification no. 290,<sup>[3]</sup> dated the twenty-second day of March, 1912, the Governor General in Council with the sanction of His Majesty, has been pleased to declare and appoint that, on and from the first day of April, 1912, the territory mentioned in Schedule A shall be and continue subject to the said Presidency of Fort William in Bengal;]

AND WHEREAS, by Proclamation published under Notification no. 289, dated the twenty-second day of March, 1912, the Governor General, with the sanction of His Majesty, has been pleased to constitute the territory mentioned in Schedule B to be, for the purposes of the Indian Councils Act, 1861,<sup>[4]</sup> a Province to which the provisions of that Act touching the making of Laws and Regulations for the peace and good government of the Presidencies of Fort St. George and Bombay shall be applicable, and to direct that the said Province shall be called the Province of Bihar and Orissa, and further to appoint a Lieutenant-Governor of that Province;

24 & 25  
Vict., c. 67.

[AND WHEREAS, by Proclamation published under Notification no. 291, dated the twenty-second day of March, 1912, the Governor General in Council, with the sanction and approbation of the Secretary of State for India, has been pleased to take under his immediate authority and management the territory mentioned in Schedule C,

[1] LEGISLATIVE PAPERS.—For Proceedings in Council, see Gazette of India, 1912\* Part VI, pp. 594 to 596.

LOCAL EXTENT.—This Act extends to the Presidency of Fort William in Bengal, the Province of Bihar and Orissa and the Province of Assam—see the title and preamble—see Schs. A, B and C, *post*, pp. 646 and 647.

Notwithstanding anything contained in this Act, the territories specified in the Schedule to the Malkharoda and Gaontia Villages Laws Act, 1923 (22 of 1923), shall not be deemed to be included within the Province of Bihar and Orissa, see s. 2 of the latter Act, *post*, p. 688.

[2] For proclamation and notification of appointments, see pages 1 and 3 of the Calcutta Gazette Extraordinary of the 1st April, 1912.

[3] Published on p. 2 of the Gazette of India Extraordinary of the 22nd March, 1912.

[4] Repealed and reenacted by the Government of India Act.

(Secs. 1-5.)

*which was formerly included within the Province of Eastern Bengal and Assam and to form the same into a Chief Commissionership, to be called the Chief Commissionership of Assam, and further to appoint a Chief Commissioner therefor;]*

AND WHEREAS it is expedient to make certain provisions regarding the application of the law in force in the territories affected by the said Proclamations;

It is hereby enacted as follows:—

1. (1) This Act may be called the Bengal, Bihar and Orissa and Assam Laws Act, 1912; and

Short title  
and com-  
mencement.

(2) It shall come into force on the first day of April, 1912.

2. The Proclamations referred to in the preamble shall not be deemed to have effected any change in the territorial application of any enactment, notwithstanding that such enactment may be expressed to apply or extend to the territories for the time being under a particular administration.

Saving  
territorial  
application  
of enact-  
ments.

3. All enactments made by any authority in British India, and all notifications, orders, schemes, rules, forms and by-laws issued, made or prescribed under such enactments, which, immediately before the commencement of this Act, were in force in, or prescribed for, any of the territory mentioned in [Schedule A,] Schedule B [or Schedule C], shall, in their application to that territory, be construed as if references therein to the authorities, territory or Gazettes mentioned in column 1 of Schedule D were references to the authorities, territory or Gazettes respectively mentioned or referred to opposite thereto in column 2 of that Schedule:

Construction  
of certain  
references  
in enact-  
ments in  
force in  
territory  
mentioned  
in Schedules  
A, B and C.

[1] \* \* \* \* \*

4. (*Constitution of Board of Revenue in Bihar and Orissa.*) Rep. by the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 7, Sch. I.

5. For the purpose of facilitating the application to the territory, or any part thereof, mentioned in [Schedule A,] Schedule B [or Schedule C] of any enactment passed before the commencement of this Act, or of any notification, order, scheme, rule, form or by-law made under any such enactment,—

Powers to  
Courts and  
Local  
Governments  
for facilita-  
ting appli-  
cation of  
enactments.

(a) any Court may, subject to the other provisions of this Act, construe the enactment, notification, order, scheme, rule,

[1] The proviso to section 3 was repealed by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I, *post*, p. 673, and is omitted.

## (Secs. 6-8. Schedule A.)

form or by-law with such alterations, not affecting the substance, as may be necessary or proper to adapt it to the matter before the Court; and

(b) the Local Government may, by notification in the local official Gazette, direct by what officer any authority or power shall be exerciseable; and any such notification shall have effect as if enacted in this Act.

**Pending Proceedings.**      **6.** Nothing in this Act shall affect any proceeding which, at the commencement thereof, is pending in or in respect of any of the territory mentioned in [*Schedule A.*] Schedule B [*or Schedule C*]; and every such proceeding shall be continued as if this Act had not been passed.

**Amendments of Acts.**      **7.** The enactments specified in Schedule E are hereby amended to the extent and in the manner specified in the fourth column thereof.

**Repeal.**      **8.** The Bengal and Assam Laws Act, 1905, is hereby repealed.      7 of 1905.

## [SCHEDULE A.]

(See sections 3, 5 and 6.)

## THE PRESIDENCY OF FORT WILLIAM IN BENGAL.

## Part I.

*The Chittagong Division, comprising the districts of Chittagong, the Chittagong Hill-tracts, Noakhali and Tippera;*

*the Dacca Division, comprising the districts of Bakarganj, Dacca, Faridpur and Mymensingh;*

*the Rajshahi Division, comprising the districts of Bogra, Dinajpur, Jalpaiguri, Malda, Pabna, Rajshahi and Rangpur.*

## Part II.

*The Burdwan Division, comprising the districts of Bankura, Birbhum, Burdwan, Hooghly, Howrah and Midnapur;*

*the Presidency Division, comprising the town of Calcutta and the districts of Jessore, Khulna, Murshidabad, Nadia and the 24-Parganas; and*

*the district of Darjeeling.]*



(Schedules B, C, D.)

## SCHEDULE B

*The Province of Bihar and Orissa.*

The districts of Bhagalpur, Monghyr, Purnea and the Sonthal Parganas, in the Bhagalpur Division,

the Patna Division, comprising the districts of Gaya, Patna and Shahabad,

the Tihari Division, comprising the districts of Champaran, Darbhanga, Muzaffarpur and Saran,

the Chota Nagpur Division comprising the districts of Hazaribagh, Manbhum Palamau, Ranchi and Singhbhum, and

the Orissa Division, comprising the districts of Angul, Balasore, Cuttack, Puri and Sambalpur.[<sup>1</sup>]

## [SCHEDULE C.

*The Province of Assam.*

*The Assam Valley Districts Division, comprising the districts of Darrang, Garo Hills, Goalpara, Kamrup, Lakhimpur, Nowgong and Sibsagar, and*

*the Surnia Valley and Hill Districts Division, comprising the districts of Cachar, Khasi and Jaintia Hills, Lushai Hills, Naga Hills and Sylhet.]*

## SCHEDULE D.

(See section 3)

[Part I—Construction of enactments, etc., in force in the territory mentioned in Schedule A (the Presidency of Fort William in Bengal)]

1	2
References	Constructions.
1. <i>The Local Government of Bengal</i>	} <i>The Governor in Council of Fort William in Bengal</i>
2. <i>The Local Government of Eastern Bengal and Assam</i>	

[1] As regards the district of Sambalpur, see the Malkherda and Gacole Villages Laws Act, 1923 (22 of 1923), *post*, p. 687.

## (Schedule D.)

## SCHEDULE D—contd.

Part I.—Construction of enactments, etc., in force in the territory mentioned in Schedule A (the Presidency of Fort William in Bengal).

1	2
References.	Constructions.
3. <i>The Board of Revenue for Eastern Bengal and Assam.</i>	} <i>The Board of Revenue for Bengal.</i>
4. <i>The Chief Controlling Revenue-Authority ..</i>	
5. <i>The Chief Revenue-Authority ..</i>	
6. <i>All officers and official bodies not mentioned in the foregoing clauses 2 to 5 (except the Treasurer of Charitable Endowments) whose authority extended, immediately before the commencement of this Act, over the Province of Eastern Bengal and Assam generally, inclusive of the territory mentioned in Part I of Schedule A.</i>	(a) <i>The respective officers and official bodies who immediately before the commencement of this Act exercised similar functions in the Province of Bengal, or</i> (b) <i>such other officers or official bodies, respectively, as the Governor in Council of Fort William in Bengal may, by notification in the local official Gazette, direct.</i>
7. <i>The local official Gazette (English or Vernacular, as the case may be) of the Government of Eastern Bengal and Assam.</i>	<i>The local official Gazette (English or Vernacular, as the case may be) of the Government of Bengal.]</i>

Part II.—Construction of enactments, etc., in force in the territory mentioned in Schedule B (the Province of Bihar and Orissa).

1	2
References.	Constructions.
8. <i>The Local Government of Bengal ..</i>	} <i>The Local Government of Bihar and Orissa.</i>
9. <i>The Local Government of the Central Provinces.</i>	
10. <i>The Board of Revenue for Bengal ..</i>	} <i>The Board of Revenue for Bihar and Orissa.</i>
11. <i>The Chief Controlling Revenue-Authority</i>	
12. <i>The Chief Revenue Authority ..</i>	
13. <i>The Court of Wards of the Central Provinces.</i>	
14. <i>The Superintendent of Government Wards in the Central Provinces.</i>	

## (Schedule D)

## SCHEDULE D—contd

Part II—Construction of enactments, etc., in force in the territory mentioned in Schedule B (the Province of Bihar and Orissa)

References	Constructions
15. The Judicial Commissioners of the Central Provinces	The High Court of Judicature at Fort William in Bengal
16. All officers and official bodies not mentioned in the foregoing clauses 8 to 15 (except the Treasurer of Charitable Endowments) whose authority extended, immediately before the commencement of this Act, over the Province of Bengal generally, inclusive of the territory mentioned in Schedule B	Such officers or official bodies, respectively as the Local Government may, by notification in the local official Gazette, direct
17. The local official Gazette (English or Vernacular, as the case may be) of the Government of Bengal or the Chief Commissionership of the Central Provinces	The local official Gazette (English or Vernacular, as the case may be) of the Government of Bihar and Orissa

Part III—Construction of enactments, etc., in force in the territory mentioned in Schedule C (the Province of Assam)

References.	Constructions.
18. The Local Government of Bengal	The Chief Commissioner of Assam.
19. The Local Government of Eastern Bengal and Assam.	
20. The Board of Revenue for Bengal	
21. The Board of Revenue for Eastern Bengal and Assam.	
22. The Chief Controlling Revenue-Authority	
23. The Chief Revenue-Authority ..	
24. All officers and official bodies not mentioned in the foregoing clauses 18 to 23 (except the Treasurer of Charitable Endowments) whose authority extended, immediately before the commencement of this Act, over the Province of Eastern Bengal and Assam generally, inclusive of the territory mentioned in Schedule C.	Such officers or official bodies, respectively as the Chief Commissioner of Assam may, by notification in the local official Gazette, direct

*The Bengal, Bihar and Orissa [Act 7 of 1912.]  
and Assam Laws Act, 1912.*

(Schedules D and E.)

SCHEDULE D—concl'd.

*Part III.—Construction of enactments, etc., in force in the territory mentioned in  
Schedule C (the Province of Assam).*

1	2
References.	Constructions.
25. <i>The Chief Commissionership of Assam</i> ..	<i>The territory mentioned in Schedule C.</i>
26. <i>The local official Gazette (English or Vernacular, as the case may be) of the Government of Bengal or the Government of Eastern Bengal and Assam.</i>	<i>The local official Gazette (English or Vernacular, as the case may be) of the Chief Commissionership of Assam.]</i>

SCHEDULE E.

(See section 7.)

1	2	3	4
Year.	No.	Short title.	Amendments.
1877	I	<i>The Specific Relief Act, 1877</i> ..	<i>In section 45 (f), [1] for the words "the Lieutenant-Governor of Bengal" substitute the words "the Governor in Council of Fort William in Bengal."</i>
1882	XV	<i>The Presidency Small Cause Court Act, 1882.</i>	<i>In section 93, [1] for the words "and Bombay" substitute the words "Bombay and Fort William in Bengal" and omit the words "the Lieutenant-Governor of Bengal."</i>
1903	X	<i>The Victoria Memorial Act, 1903</i>	<i>In section 2 (1) (b), [1] for the words "the Lieutenant-Governor of Bengal" substitute the words "the Governor of Fort William in Bengal."</i>
1910	X	<i>The Indian Museum Act, 1910</i> ..	<i>In section 2 (1) (c) [1] for the words "the Lieutenant-Governor of Bengal" substitute the words "the Governor of Fort William in Bengal".</i>

[1] Printed in the General Acts, 1873-86, Ed. 1928, p. 103.

[2] Printed in *ibid*, p. 424.

[3] Printed in the General Acts, 1898-1909, Ed. 1928, p. 256.

[4] Printed in the Bengal Code, 1913-15, Vol. I.

# ACT 4 OF 1914.

(THE DECENTRALIZATION ACT, 1914.)<sup>[1]</sup>

(24th February, 1914.)

## An Act to decentralize and otherwise to facilitate the administration of certain enactments.

WHEREAS it is expedient to decentralize and otherwise to facilitate the administration of certain enactments; It is hereby enacted as follows :—

1. This Act may be called the Decentralization Act, 1914. Short title.
2. The enactments specified in the third column of the Schedule are hereby amended to the extent and in the manner specified in the fourth column thereof. Amendment of certain enactments.
3. Any appointment, notification, order, scheme, rule, form or bye-law made or issued by an authority for the making or issuing of which a new authority is substituted by or under this Act, shall, unless inconsistent with this Act, be deemed to have been made or issued by such new authority unless and until superseded by an appointment, notification, order, scheme, rule, form or bye-law made or issued by such new authority. Saving of orders, etc., issued by previous authorities.

### THE SCHEDULE<sup>[2]</sup>.

#### PART I.

*Acts of the Governor General of India in Council.*

Year.	No.	Short title.	Amendments.
1859	XI <sup>[3]</sup>	The Bengal Land Revenue Sales Act, 1859. ..	1. In section 19 for the words "Board of Revenue" substitute the word "Commissioner" and for the word "they" the word "he."

<sup>[1]</sup> LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, *see* Gazette of India, 1913, Pt. V, p. 181; for Report of Select Committee, *see* *ibid*, 1914, Pt. V, p. 45; and for Proceedings in Council, *see* *ibid*, 1913, Pt. VI, p. 565, and *ibid*, 1914, Pt. VI, pp. 159 and 372.

LOCAL EXTENT.—Since this Act has no "local extent" clause, it must (so far as applicable) be taken to extend to the whole of British India.

The Act is in force in the Sonthal Parganas,<sup>4</sup> *see* Vol. IV, Part IV, of this Code, but its application is barred in the Angul district by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post* p. 768.

<sup>[2]</sup> Only so much of the Schedule as relates to the Acts printed in this Code is reproduced here.

<sup>[3]</sup> Printed *ante*.

(The Schedule.)

## THE SCHEDULE.

## PART I.

*Acts of the Governor-General of India in Council.*

Year.	No.	Short title.	Amendments.
1859	XI <sup>[1]</sup>	The Bengal Land Revenue Sales Act, 1859— <i>concl'd.</i>	<p>2. In section 26 omit the words "if they see cause may recommend to the Local Government to annul the sale; and the Local Government in any such case."</p> <p>3. In section 32 for the word "Government", where that word occurs for the first time, substitute the words "the Board of Revenue."</p> <p>4. In section 49 omit the words "or the Local Government."</p>
1873	VIII <sup>[2]</sup>	The Northern India Canal and Drainage Act, 1873.	<p>1. In section 65 omit the words "with the previous sanction of the Governor-General in Council."</p> <p>[3] * *</p>
1876	VI <sup>[1]</sup>	The Chota Nagpur Encumbered Estates Act, 1876.	<p>In section 19 after the word "may", where that word occurs for the first time, insert the words "subject to the control of the Governor General in Council" and omit the words "approved by the Governor-General in Council and."</p> <p>* *</p>
1879	XIV <sup>[2]</sup>	The Hackney-carriage Act, 1879..	<p>1. In section 3 for the words "Local Government", where these words occur, substitute the word "Commissioner."</p> <p>2. In section 4 omit the words "subject to the control of the Governor General in Council."</p> <p>3. In section 5 for the words "Local Government", where these words occur for the first time, substitute the word "Commissioner."</p>

[<sup>1</sup>] Printed *ante*.[<sup>2</sup>] Printed in the Supplement to this Code.[<sup>3</sup>] The entry relating to s. 75 of the Northern India Canal and Drainage Act, 1873 (8 of 1873), repealed by the Devolution Act, 1920 (38 of 1920), s. 3 and sch. II is omitted.

(The Schedule.)

## THE SCHEDULE.

## PART I—concl'd.

*Acts of the Governor-General of India in Council.*

Year.	No.	Short title.	Amendments.
1880	XIII [1]	The Vaccination Act, 1880 ..	1. In section 2, clause (7), omit the words "by the Local Government". 2. [2] * * * 3. In sections 8 and 19 for the words "Local Government" wherever they occur in these sections, substitute the word "Commissioner"; and in section 19 before the word "Commissioners", where that word occurs for the second time, insert the word "Municipal".
1883	I [4]	The Central Provinces Local Self-Government Act, 1883.	In section 32 (1) omit the words "with the previous approval of the Governor-General in Council."
*	*	* * *	* * *
1887	XII [3]	The Bengal, Agra and Assam Civil Courts Act, 1887.	[4] * * * 2. Omit section 5. 3. In section 6 (1) for the words "the Governor-General in Council has sanctioned an increase of the number of District Judges or Subordinate Judges" substitute the words "an increase in the number of District or Subordinate Judges has been made under the provisions of section 4." 4. In section 7 (2) for the words "with the previous sanction" substitute the words "subject to the control." 5. To section 19, sub-section (2), and to sections 25 and 34 (4), add the following proviso, namely:— "Provided that the Local Government may, by notification in the local official Gazette, delegate to the High Court its powers under this section."

[1] Printed in the Supplement to this Code.

[2] The entry no. 2 was repealed by s. 3 and Sch. II of the Devolution Act, 1920 (38 of 1920), and is omitted.

[3] Printed *ante*.

[4] The entry relating to s. 4 was repealed by the Devolution Act, 1920 (38 of 1920), and is omitted.

*(The Schedule.)*

## THE SCHEDULE.

## PART III.

*Bengal Regulations.*

Year.	No.	Short title.	Amendments.
1799	V <sup>[1]</sup>	The Bengal Wills and Intestacy Regulation, 1799.	In section 7, the amendment made by the Repealing and Amending Act, 1903, Schedule II, Part I, is repealed, and for the words "Governor-General in Council for his" substitute the words "Board of Revenue, or, in Assam, to the Local Government, for its."

[<sup>1</sup>] Printed *ante*.



ACT 10 OF 1914.

(THE REPEALING AND AMENDING ACT, 1914.)<sup>[1]</sup>

(17th March, 1914.)

**An Act to amend certain enactments and to repeal certain other enactments.**

Whereas it is expedient that certain formal amendments should be made in the enactments specified in the First Schedule;

and whereas it is also expedient that certain enactments specified in the Second Schedule which are spent, or have ceased to be in force otherwise than by express specific repeal, or have by lapse of time or otherwise become unnecessary, should be expressly and specifically repealed;

It is hereby enacted as follows:—

**1.** This Act may be called the Repealing and Amending Act, 1914. Short title.

**2.** The enactments specified in the First Schedule are hereby amend- Amendment of certain enactments.  
ed to the extent and in the manner mentioned in the fourth column thereof.

**3—4.** (*Repeal of certain enactments. Savings.*) Rep. by the Repealing Act, 1927 (12 of 1927).

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<sup>[1]</sup> LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Gazette of India, 1913, Pt. V, p. 147; for Report of Select Committee, see *ibid.*, 1914, Pt. V, p. 65; and for Proceedings in Council, see *ibid.*, 1913, Pt. VI, pp. 513, 555, and *ibid.*, 1914, Pt. VI, pp. 141, 368 and 720.

LOCAL EXTENT.—Since this Act has no “local extent” clause, it must (so far as applicable) be taken to extend to the whole of British India.

(The Schedule.)

THE FIRST SCHEDULE<sup>[1]</sup>

## AMENDMENTS

(See section 2)

1	2	3	4
Year.	No	Short title	Amendments
*	*	* * *	* * *
1903	I <sup>[2]</sup>	[ <sup>3</sup> ] The Repealing and Amending Act, 1903	In the title, after the word "enactments" where it first occurs, the word "and" shall be inserted.
1867	XXXII <sup>[4]</sup>	The Chief Commissioners' Powers Act	In the preamble, for the words "Chief Commissioners" the words "Chief Commissioner" shall be substituted.
1882	V <sup>[4]</sup>	The Indian Easements Act, 1882	For section 3 the following shall be substituted, namely —  " 3 All references in any Act or Regulation Construction of certain references to sections 28 and 27 of the XV of 1877 Indian Limitation Act, 1877, of 1871 or to sections 27 and 28 of Act no IX of 1871 shall, in the territories to which this Act extends, be read as made to sections 15 and 16 of this Act ".

## THE SECOND SCHEDULE.

[Repeals]. Repealed by the Repealing Act 1927 (12 of 1927).

[1] Only so much of the Schedule as relates to the enactments printed in this Code is reproduced here

[2] Printed *ant*

[3] Now called the Amending Act, 1903

[4] Printed in the Supplement to the Code

ACT 8 OF 1915.

[THE ASSAM LABOUR AND EMIGRATION (AMENDMENT) ACT, 1915.][<sup>1</sup>]

(25th March, 1915.)

An Act further to amend the Assam Labour and Emigration Act, 1901.

WHEREAS it is expedient further to amend the Assam Labour and Emigration Act, 1901; It is hereby enacted as follows :—

1.(1) This Act may be called the Assam Labour and Emigration (Amendment) Act, 1915. Short title and commencement.

(2) It shall come into force at once, with the exception of section 7, which shall come into force on such day as the Governor General in Council may, by notification in the *Gazette of India*, appoint in this behalf.

2. In section 2 (1) of the Assam Labour and Emigration Act, 1901 (hereinafter called the said Act), the following amendments shall be made, namely :— Amendment of section 2 (1), Act 6, 1901.

(a) After clause (c) the following clause shall be added, namely :—

(cc) [Printed *ante*, p. 555].

(b) To clause (e) the following Explanation shall be added, namely :—

[Printed *ante*, p. 555.]

(c) After clause (n) the following clause shall be added, namely :—

(nn) [Printed *ante*, p. 556].

(d) After clause (t) the following shall be added, namely :—

[Printed *ante*, p. 557.]

3. For sub-section (1) of section 64 of the said Act, the following sub-sections shall be substituted, namely :— Amendment of section 64, Act 6, 1901.

[Printed *ante*, p. 563.]

and the existing sub-section (2) of the same section shall be renumbered (4).

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[<sup>1</sup>] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see *Gazette of India*, 1915, Part V, p. 30, and for Proceedings in Council, see *ibid*, Part VI, pp. 185, 186.

LOCAL EXTENT.—The local extent of this Act is the same as that of Act 6 of 1901, or which see foot-note [<sup>1</sup>] on p. 554, *ante*.

The Act is in force in the Sonthal Parganas, see Vol. IV, Part IV, of the Code, but its application is barred in the Angul district by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post* p. 768.

(Secs. 4-7.)

Amendment  
of section  
67, Act 8,  
1901.

4. In section 67 (1) of the said Act there shall be substituted for the words "the employer," the words "his employer or the association or firm which has applied in respect of such Local Agent under section 64, sub-section (2)" and for the words from "or if" to the end of the sub-section, the following words, namely:—

"or if the District Magistrate is satisfied that the conduct of the Local Agent has been such as to render him unsuitable to hold a license."

Insertion of  
new Chapter  
VI-A in Act  
6, 1901.

5. After section 116 of the said Act the following provisions shall be inserted, namely:—

#### CHAPTER VI-A.

##### ASSAM LABOUR BOARD.

Secs. 116-A to 116-F. [Printed *ante*, p. 577.]

Repeal of  
section 90,  
Act 6,  
1901.  
Consequen-  
tial repeals  
and amend-  
ments.

6. (1) The following portions of the said Act are hereby repealed, namely, section 90; in section 91, the words "notwithstanding anything contained in section 90," and in clause (b) thereof, the words "or holding permits granted and countersigned under section 90," and the words "or of that section, as the case may be;" and clause (a) of section 174.

(2) In section 92 of the said Act for the words and figures "sections 90 and 91" there shall be substituted the word and figures "section 91."

Repeal of  
Chapter III,  
Act 6,  
1901.  
Consequen-  
tial repeals  
and amend-  
ments.

7. (1) The portions of the said Act specified in the Schedule to this Act are hereby repealed to the extent mentioned in the second column of the Schedule.

(2) The following amendments shall be made in the said Act, namely:—

(i) In the heading to Chapter V, and in section 92 there shall be substituted for the words and figures "Chapters III and IV" the word and figures "Chapter IV."

(ii) In section 93 (2) there shall be substituted for the words and figures "Chapters II to IV inclusive," the words and figures "Chapter II or IV" and for the words and figures "Chapters VI to X" the words and figures "Chapters VI (except Chapter VIA) to X."

(iii) For section 172 of the said Act, the following section shall be substituted, namely:—

172. [Printed *ante*, p. 601.]

## (The Schedule.)

## THE SCHEDULE.

## PORTIONS OF ACT 6 OF 1901 REPEALED.

[Sec section 7 (1) ]

1	2
Chapter or Section	Extent of repeal.
S. 2 (1)	Clause (c). In clause (d) the words " contractor, sub-contractor, recruiter." In clause (l) the words and figures " section 34 or." Clauses (o) and (s).
S. 12 (1)	Clause (a). In clause (c) the words from " or if the labourer " to the end of the clause.
S. 12 (2)	The whole.
S. 12 (3)	The whole.
Chapter III	The whole.
S. 65	The whole.
S. 91	Clause (a).
S. 163 (2)	In clause (b) the words " contractors or." Clause (f). In clauses (m) to (r) the word " contractors", wherever it occurs.
S. 163 (3)	The word " contractor " in both places where it occurs.
Ss. 165 to 168	The whole.
S. 171	The words and figures " section 55 or."
[1] *	
S. 175	The whole.

[1] The words and figures " S. 174—Clause (d) " were repealed by the Repealing and Amending Act, 1915 (11 of 1915), s. 3, Sch. 2.

## ACT 16 OF 1917.

(THE PATNA UNIVERSITY ACT, 1917.)<sup>[1]</sup>

(18th September, 1917.)

### An Act to establish and incorporate a University at Patna.

WHEREAS it is expedient to establish and incorporate a University at Patna, to be known as the Patna University; It is hereby enacted as follows :—

Short title  
and com-  
mencement

1. (1) This Act may be called the Patna University Act, 1917.

(2) It shall come into force on such date<sup>[2]</sup> as the Governor-General in Council may, by notification in the Gazette of India, direct.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

“ College ” means a college of the University or an external college ;

“ College of the University ” means the Patna College, the Training College for teachers at Patna, and any other educational institution admitted as a college of the University in accordance with this Act and the Regulations ;

“ External College ” means the Bihar National College, Bankipore, the Patna Law College, the Greer Bhumihar Brahman College, Muzaffarpur, the Tej Narayan Jubilee College, Bhagalpur, the Ravenshaw College, Cuttack, St. Columba's College, Hazaribagh, the Diamond Jubilee College, Monghyr, and any other educational institution admitted as an external college in accordance with this Act and the Regulations ;

“ Local Government ” means the Local Government of Bihar and Orissa ;

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[1] For Statement of Objects and Reasons, see *Gazette of India*, 1916, Pt. V, p. 82; for Report of Select Committee, see *ibid*, 1917, Pt. V, p. 78 and for Proceedings in Council, see *ibid*, 1916, Pt. VI, p. 572, and *ibid*, 1917, Pt. VI, pp. 24, 294, 340, 719, 862 and 877.

The Patna University (Amendment) Act, 1932 was passed by the Bihar and Orissa Legislative Council while the Code was in the Press.

For provisions as to vacation of office of an ordinary fellow or an ordinary member of the Syndicate, by resignation and power to fill vacancies, see ss. 3, and 4, respectively, of the Patna University (Amendment) Act, 1918 (B. & O. Act 2 of 1918), in Vol. III of this Code.

[2] This Act was brought into force from the 1st October 1917, see Notification no. 834, dated the 1st October 1917; Gen. R. and O., Vol. IV, p. 526.

The Act is in force in the Sonthal Parganas, see Vol. IV, Part IV, of the Code, but its application is barred in the Angul district by the Angul Laws Regulation, 1913 (3 of 1913), s. 3(2), *post* p. 768.

(Secs. 3-5.)

" Regulations " means Regulations for the time being in force of the University ;

" Senate " means the University Senate ;

" Syndicate " means the University Syndicate ;

" University staff " means such persons as may be declared by the Regulations to be members of the University staff ; and

" University " means the Patna University.

3. (1) The first Chancellor and Vice-Chancellor of the University. and the first members of the Senate, and all persons who may hereafter become such officers or members, so long as they continue to hold such office or membership, are hereby constituted a body corporate by the name of the Patna University. Incorporation.

(2) The Patna University shall have perpetual succession and a common seal, and shall sue and be sued by the said name.

(3) The University shall be deemed to have been incorporated for the purposes, among others, of making provision for imparting education, of promoting original research, of examining students and conferring degrees, of admitting educational institutions to its privileges, and of supervising and controlling the administration of colleges of the University in all matters of education and discipline, and of inspecting and supervising external colleges.

4. The following shall be the authorities and officers of the University :— Authorities and officers of the University.

(i) the Chancellor ;

(ii) the Vice-Chancellor ;

(iii) the Senate ;

(iv) the Syndicate ;

(v) the Registrar ; and

(vi) such other authorities and officers as the Regulations may declare to be authorities or officers of the University.

5. (1) The Chancellor shall be [the Governor]<sup>[1]</sup> of Bihar and Orissa for the time being. The Chancellor.

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[1] These words were substituted for the words " the Lieutenant-Governor " by the Patna University (Amendment) Act, 1921 (B. & O. Act 1 of 1921), s. 2, in Vol. III of this Code.

## (Sec. 6.)

(2) The Chancellor shall, by virtue of his office, be the head of the University, and shall, when present, preside at Convocation of the University convened for the purpose of conferring degrees and for other purposes.

(3) Every proposal for the conferment of an honorary degree shall be subject to the confirmation of the Chancellor.

(4) The Chancellor shall finally decide any dispute with regard to the election of any person to be a member of the Senate or Syndicate.

[<sup>1</sup>](5) The Chancellor shall have the right to make an inspection, or to cause an inspection to be made by such person or persons as he may direct, of the University, its buildings, laboratories, workshops and equipment and of any institutions associated with the University, and also of the examinations, teaching and other work conducted or done by the University, and to make an inquiry or to cause an inquiry to be made in like manner in respect of any matter connected with the University. The Chancellor shall in every case give notice to the University of his intention to make an inspection or inquiry or to cause an inspection or inquiry to be made, and the University shall be entitled to be represented thereat.

[<sup>2</sup>](6) The Chancellor may, by order in writing, annul any proceeding of the University which is not in conformity with this Act and the Regulations :

Provided that, before making any such order, he shall call upon the University to show cause why such an order should not be made, and if any cause is shown within a reasonable time, he shall consider the same.

The Vice-Chancellor.

6. (1) The Vice-Chancellor shall be appointed by the Local Government, and shall hold office for three years from the date of his appointment, on the expiration of which period he may be re-appointed from time to time, provided that no such re-appointment shall be for a longer period than two years.

(2) The Vice-Chancellor shall, when present, preside at every meeting of any University authority of which he is a member and at Convocation of the University when the Chancellor is not present

(3) The Vice-Chancellor shall appoint and control every officer and servant of the University (other than the members of the University Staff) whose aggregate emoluments do not exceed two hundred rupees per mensem.

[<sup>1</sup>] This sub-section was substituted for the original sub-section (5) by section 2(1) of the Patna University (Amendment) Act, 1923 (B. & O. Act 3 of 1923), in Vol. III of this Code.

[<sup>2</sup>] This sub-section was added by section 2 (2) of *ibid.*



(Sec. 7.)

(4) The Vice-Chancellor shall have the right of visiting and inspecting the colleges.

7. (1) The Senate shall consist of not less than sixty and not more than seventy-five Ordinary Fellows in addition to the following *ex-officio* Fellows, namely :—

(i) the Vice-Chancellor;

[<sup>1</sup>](ii) the Ministers appointed by the Governor of Bihar and Orissa under section 52(1) of the Government of India Act, and one member of the Executive Council of the Governor of Bihar and Orissa to be selected by the Governor;]

(iii) the Chief Justice of the High Court of Judicature at Patna;

(iv) the Bishop of Chota Nagpur;

(v) the Director of Public Instruction in Bihar and Orissa; and

(vi) the Principals of all colleges in which instruction to a degree standard is given

(2) The Ordinary Fellows of the first Senate shall be the persons specified in the First Schedule, [<sup>2</sup>] and shall hold office for such period as may be prescribed by the Regulations.

(3) Upon the expiration of the period of office of the first Senate, the next and every succeeding Senate, shall include, in addition to the *ex-officio* Fellows hereinbefore referred to,—

(i) Fifty Ordinary Fellows to be elected in such manner as may be prescribed by the Regulations, of whom—

(a) twenty shall be elected by the teaching staffs of the colleges;

(b) five shall be elected by the graduate teachers of schools in which instruction to a standard to be prescribed by the Regulations is given;

(c) fifteen shall be elected by registered graduates other than any who may be included for the time being in the electorates referred to in sub-heads (a) and (b), and

(d) ten shall be elected by such associations or public bodies as the Chancellor may from time to time empower in this behalf, of whom such number shall be elected by each such association or body as the Chancellor may from time to time direct :

[<sup>1</sup>] This clause was substituted for the original clause (ii) by section 3 of the Patna University (Amendment) Act, 1921, (B. & O. Act 1 of 1921), in Vol. III of this Code

[<sup>2</sup>] The First Schedule is omitted as having been spent.

## (Sec. 7.)

Provided that all such elections shall be made subject to such conditions as to the representation on the Senate of all the Faculties of the University and of persons permanently resident in the Orissa Division as shall be prescribed by the Regulations; and

- (ii) Not less than ten and not more than twenty-five Ordinary Fellows to be nominated by the Chancellor subject to the Regulations.

(4) Subject to the provisions of this Act and the Regulations, the Senate shall have the entire management of, and superintendence over, the affairs, concerns and property of the University, and shall exercise all the powers of the University not otherwise provided for.

In particular, and without prejudice to the generality of the foregoing power,

- (i) it shall determine—

- (a) what degrees and diplomas shall be granted by the University;
- (b) the courses of study and the duration thereof;
- (c) the time in a student's career at which such courses shall be taken;
- (d) what subjects or groups of subjects shall be regarded as qualifying for each degree;
- (e) whether any new subject of instruction shall be included in the curriculum of the University or of any of its colleges, or whether any subject previously taught shall be omitted therefrom;
- (f) whether the standard to which instruction is given in any subject shall be raised or lowered; and

- (ii) it shall pass the Budget.

(5) Save on a reference made to it by not less than six members of the Syndicate jointly, the Senate shall not have power to review any act of the Syndicate duly done in the exercise of its powers under this Act or the Regulations in respect of any of the following matters:—

- (a) the appointment of members of the Faculties and Boards of Studies, the determination of the procedure of such Faculties or Boards and of the quorum of members required for the transaction of business;
- (b) the appointment and remuneration of examiners and the determination of their duties and powers;

## (Secs. 8-8A.)

- (c) the award of scholarships and prizes;
- (d) the arrangements made for teaching during each session, including the University time-table of courses of instruction and of inter-collegiate lectures and classes;
- (e) the prescription of text-books for the courses of study; and
- (f) the general disciplinary control over the students of the University.

8. (1) The Syndicate shall consist of fourteen ordinary members in addition to the following *ex-officio* members, namely:—

The Syndicate.

- (i) the Vice-Chancellor,
- (ii) the Director of Public Instruction in Bihar and Orissa,
- (iii) the Principal of the Patna College, and
- (iv) the Principal of the Ravenshaw College, Cuttack.

(2) The ordinary members of the first Syndicate shall be the persons specified in the Second Schedule<sup>[1]</sup>, and shall hold office for two years.

(3) Upon the expiration of the period of office of the ordinary members of the first Syndicate, the ordinary members of the next and every succeeding Syndicate shall be elected by the Senate from among its members in such manner as may be prescribed by the Regulations, but so as to include—

- (a) at least one person permanently resident in the Orissa Division;
- (b) not less than seven members of the University staff, or of the teaching staffs of the colleges;
- (c) not less than three other persons who are not following the profession of education.

(4) In addition to the matters referred to in section 7(5), the Syndicate shall determine, subject to the provisions of section 7(4) and the Regulations, the standard of proficiency to be required for ordinary degrees, shall control the courses of study, the examinations and all matters of education in the colleges of the University, and shall be responsible for the supervision and inspection of such matters in the external colleges.

[<sup>2</sup>] 8A. No act or proceeding of any authority or other body of the University shall be invalidated merely by reason of the existence of any casual vacancy or vacancies among its members.

Proceedings not to be invalidated by casual vacancies.

[1] The Second Schedule is omitted as having been spent

[2] This section was inserted by the Patna University (Amendment) Act, 1923 (B. & O. Act 3 of 1923), s. 3(1), in Vol. III of this Code

## (Secs. 9-10.)

Admission  
of educa-  
tional insti-  
tutions as  
colleges.

9. (1) No educational institution shall be admitted as a college, unless the following conditions are complied with, namely :-

- (a) the admission of the institution as a college has, on application made, and after the Syndicate has recorded its opinion on such application, been approved by the Senate and the Local Government; and
- (b) all provisions of the Regulations relating to the admission of educational institutions as colleges have been substantially complied with.

(2) No educational institution shall be admitted as a college of the University, unless the following conditions are complied with, namely :—

- (a) the buildings of the institution are situate within the area which has been, or may hereafter be, acquired for the purposes of the University;
- (b) all provisions of the Regulations relating to the admission of educational institutions as colleges of the University have been substantially complied with.

(3) No educational institution shall be admitted as an external college, unless the following conditions are complied with, namely :—

- (a) in the case of an educational institution teaching to a degree standard, the buildings of the institution are situate in one of the following towns, namely :—Muzaffarpur, Bhagalpur, Cutlack, or Hazaribagh :

Provided that this condition may be dispensed with in any particular case if the Governor-General in Council so directs;

- (b) all provisions of the Regulations relating to the admission of educational institutions as external colleges have been substantially complied with.

Exclusion of  
a college  
from the  
privileges of  
the Univer-  
sity.

10. (1) Any member of the Syndicate may bring forward a proposal that a college be deprived either in whole or in part, of its privileges.

(2) The Syndicate shall, after affording the governing body of the college all reasonable facilities for stating its objections to the proposal, consider the proposal and transmit a copy of its proceedings, including a copy of any representation which may be made by such governing body thereon, to the Senate.

(3) The Senate shall consider the proposal and shall, if it approves the same either with or without modification, transmit a copy of the

## (Secs. 11-14.)

proceedings of the Syndicate and of its own proceedings to the Local Government.

(4) The Local Government, after such further inquiry, if any, as may appear to it to be necessary shall, in so far as it agrees with the opinion of the Senate, express its concurrence therewith, and thereupon, the college shall be deprived of such privileges as the decision of the Senate and the Local Government (which shall be communicated to it) may specify.

11. Notwithstanding anything in any other law for the time being in force, no University in British India other than the Patna University shall, after the commencement of this Act, admit any educational institution in the province of Bihar and Orissa to any privileges whatever, and any such privileges granted by any such other University to any educational institution in that province prior to the commencement of this Act shall be deemed to be withdrawn on the commencement of this Act: Termination of privileges granted by other Universities to educational institutions in Bihar and Orissa.

Provided that any educational institution which, in accordance with the provisions of this section, has been deprived of any such privileges shall, notwithstanding the provisions of section 9, be deemed to have been granted the like privileges by the Patna University.

12. The members of the University staff shall be appointed by the University Chancellor after considering the recommendations of the Syndicate and the Senate: University staff.

Provided that in the case of a person paid from the funds of the University whose term of appointment does not extend beyond a total period of six months, the appointment shall rest with the Syndicate subject to the sanction of the Chancellor.

13. The accounts of the University shall, once at least in every year, and at intervals of not more than fifteen months, be audited by auditors appointed by the Local Government, and a copy of the accounts, together with the auditors' report, shall be published in the local official Gazette. Audit of accounts.

14. (1) Subject to the provisions of this Act, the Regulations— Regulations.

(i) shall provide for the following matters :—

(a) the election and all matters connected therewith of Ordinary Fellows or members of the Senate and Syndicate and so as to include provisions for the adequate representation of all the Faculties of the University among the Fellows to be elected by the teaching staffs of the colleges;

*(Sec. 14.)*

- (b) the inclusion of persons permanently resident in the Orissa Division among the nominated and elected Fellows of the Senate;
  - (c) the duration of the term of office of the Ordinary Fellows or members of the Senate and Syndicate;
  - (d) the maintenance for the purpose of constituting the electorate referred to in section 7 (3) (i) (c) of a register of graduates including, for such period as may be thereby prescribed, graduates of any other University who are ordinarily resident in Bihar and Orissa, and the conditions subject to which entries may be made therein; and
  - (e) the procedure to be followed at meetings of the Senate and Syndicate and the quorum of Fellows or members required to be present for the transaction of business; and
- (ii) may provide for all or any of the following matters :
- (a) the constitution, powers and duties of the Faculties, Boards of Studies, or such other authorities or bodies, as it may be deemed necessary, from time to time, to appoint;
  - (b) the conditions of appointment and the powers and duties of the Registrar, Professors and other officers of the University, whether being members of the University staff or not;
  - (c) the constitution and functions of the governing bodies of the colleges;
  - (d) the admission of educational institutions as colleges, and the withdrawal of privileges from colleges so admitted;
  - (e) the admission of students to the University and their examination;
  - (f) the residential arrangements for students of the University;
  - (g) the mode of appointment and duties of examiners;
  - (h) the conferment and withdrawal by the University of degrees, diplomas, certificates and other academic distinctions;
  - (i) the general discipline and control of the University and of the colleges of the University;
  - (j) the accounts to be kept and the use to be made of the funds of the University; and
  - (k) generally for carrying out the provisions of this Act.

*(Sec. 14.)*

(2) The first Regulations shall be drafted by the Vice-Chancellor, who shall submit the draft to the Senate for consideration. The Senate shall consider the draft and submit the same, with such additions and alterations as it considers necessary, to the Local Government. The Local Government shall, if it accepts the draft as settled by the Senate, sanction the same. If it considers that any additions to, or alterations in, the draft are necessary, it shall submit the draft with its proposals for the orders of the Governor-General in Council, and the first Regulations shall be the draft with such alterations or additions as he may sanction.

(3) If the Senate does not submit to the Local Government the draft of the Regulations within two months from the date on which it was first laid before that authority by the Vice-Chancellor, the Local Government may make the first Regulations, which when sanctioned by the Governor-General in Council shall have the same force as if they had been sanctioned under sub-section (2).

(4) The Senate may, from time to time, make new or additional Regulations, or may amend or repeal the Regulations.

(5) The Syndicate may from time to time lay before the Senate any proposals for new Regulations or for the amendment or repeal of any of the existing Regulations, and it shall be the duty of the Senate duly to consider all such proposals.

(6) All new Regulations, or additions to the Regulations, or amendments to, or repeals of, the Regulations shall require the previous sanction of the Local Government, which may sanction, disallow, or remit the same for further consideration.

[<sup>1</sup>] The first Schedule.

[<sup>1</sup>] The Second Schedule.

\* \* \* \* \*

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[<sup>1</sup>] The First and the Second Schedules have been omitted as having been spent.

ACT 38 OF 1920.

(THE DEVOLUTION ACT, 1920.)<sup>[1]</sup>

(14th September, 1920.)

**An Act to relax the control in certain respects of the Governor General in Council over Local Governments, and to transfer to such Governments certain powers now exercisable by the Governor General in Council.**

WHEREAS powers of control are vested in the Governor General in Council in virtue of certain enactments and it is expedient to relax those powers, and to transfer to Local Governments powers under certain enactments now exercisable by the Governor General in Council; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Devolution Act, 1920.

Amendment  
of certain  
enactments.

2. The enactments specified in the First Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

3. [*Consequential repeals.*] *Repealed by the Repealing Act, 1927 (12 of 1927).*

Saving of  
orders, etc.,  
issued by  
previous  
authorities.

4. Any appointment, notification, order, scheme, rule, form or bye-law made or issued, before the commencement of this Act, by authority for the making or issuing of which a new authority is substituted by or under this Act, shall, unless inconsistent with this Act, be deemed to have been made or issued by such new authority, unless and until superseded by an appointment, notification, order, scheme, rule, form or bye-law made or issued by such new authority.

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[1] For Statement of Objects and Reasons, see Gazette of India, 1920, Pt. V, p. 225; and for Proceedings in Council, see *ibid*, 1920, Pt. VI, pp. 1082 and 1145.

The Act is in force in the Sonthal Parganas, see Vol. IV, Part IV, of the Code, but its application is barred in the Angul district by the Angul Laws Regulation, 1913 (3 of 1913), s. 3(2), *post*, p. 768.



(*The First Schedule.*)

THE FIRST SCHEDULE.[<sup>1</sup>]

(See section 2 )

PART 1.—*Acts of the Governor General in Council*

Year	No	Short title or subject.	Amendments
1	2	3	4
* 1873	VIII[ <sup>2</sup> ]	* * * The Northern India Canal and Drainage Act, 1873.	* In section 75, the words "subject to the control of the Governor General in Council" and the words "subject to the like control" shall be omit- ted
1875	XX[ <sup>2</sup> ]	The Central Provinces Laws Act, 1875	In section 10, the words "when sanc- tioned by the Governor-General in Council" shall be omitted
* 1878	XVII[ <sup>2</sup> ]	* * * The Northern India Fisheries Act, 1878.	* In section 4, for the first Proviso the following shall be substituted, namely — "Provided that when a river lies between two Provinces, the powers conferred by this sec- tion shall, in respect of such river, be exercised jointly by the local Governments of those Provinces by notifications in their respective official Gazet- tes, and in any case where the said Local Governments fail to agree as regards the exercise of any such power they shall exercise such power subject to the control of the Governor General in Council." In clause (d) of section 17, the words "subject to the control of the Gover- nor General in Council" shall be omitted.
* 1879	XIV[ <sup>2</sup> ]	* * * The Hackney-carriage Act, 1879.	* In section 5, for the words "Governor General in Council", where they first occur the words "Local Govern- ment" shall be substituted.
* 1880	XIII[ <sup>2</sup> ]	* * * The Vaccination Act, 1880.	* * * In sections 4, 5 and 20 the words "subject to the control of the Governor General in Council" shall be omitted

[<sup>1</sup>] Only so much of the Schedule as relates to the enactments printed in this Code is reproduced here.

[<sup>2</sup>] Printed in the Supplement to this Code.

## (The First Schedule.)

## Part I.—Acts of the Governor General in Council

Year	No	Short title or subject	Amendment
1	2	3	4
1885	VIII <sup>[1]</sup>	The Bengal Tenancy Act, 1885	<p>In subsection (7) of section 101, the words "subject to the sanction of the Governor-General in Council" shall be omitted.</p> <p>In section 101, in subsection (1) the words "with the previous sanction of the Governor-General in Council and may" and the words "with the sanction of any of the courts next hereinafter mentioned" shall be omitted.</p> <p>In subsection (2) of the said section, for the words from "the cases" to "the following" the following shall be substituted, namely:</p> <p>"In particular and without prejudice to the generality of the foregoing power, the Local Government may make such an order in the following cases".</p> <p>In subsection (3) of section 105, for the words "Government of India" the words "Local Government", and for the words "Gazette of India" the words "local official Gazette" shall be substituted.</p> <p>In section 112, in subsection (1), the words "with the previous sanction of the Governor-General in Council" and the whole of subsection (3) shall be omitted.</p>
* 1887	* XII <sup>[1]</sup>	* The Bengal, Agia and Assam Civil Courts Act, 1887.	<p>* For section 1 the following section shall be substituted, namely:</p> <p>"1. The Local Government may alter the number of District Judges, Subordinate Judges and Munsifs now fixed".</p> <p>In subsection (1) of section 14, after the words "Governor-General in Council" the following shall be inserted, namely: "in the case of the High Court at Calcutta and by the Local Government in other cases".</p> <p>In clause (b) of section 36(1), the words "with the previous sanction of the Governor-General in Council" shall be omitted.</p> <p>* * *</p>

## (The First Schedule.)

## Part I.—Acts of the Governor General in Council.

Year.	No.	Short title or subject.	Amendments.
1	2	3	4
1899	XXIV[1]	The Central Provinces Court of Wards Act, 1899.	In clause (c) of section 2, the words "with the previous sanction of the Governor-General in Council" shall be omitted
1901	VI[2]	The Assam Labour and Emigration Act, 1901,	In clause (b) of section 1(2) and in section 221, for the words "with the previous sanction" the words "subject to the control" shall be substituted  In sub-section (2) of section 64, for the words "the Governor-General in Council" the words "Local Government" shall be substituted.
*		* * *	*
1903	I[2]	The Amending Act, 1903 ..	In Part II of the Second Schedule in the entry in column 4 against Act XXI of 1836, the words "with the previous sanction of the Governor-General in Council" shall be omitted.
*		* * *	*
1912	VII[2]	The Bengal, Bihar and Orissa and Assam Laws Act, 1912.	The proviso to section 3 shall be omitted.
*		* * *	*

[1] Printed in the Supplement to this Code.

[2] Printed *ante*.

## (The First Schedule.)

## Part I.—Acts of the Governor General in Council.

Year.	No.	Short title or subject.	Amendments.
1	2	3	4
1885	VIII <sup>[1]</sup>	The Bengal Tenancy Act, 1885.	<p>In sub-section (7) of section 39, the words "subject to the control of the Governor-General in Council" shall be omitted.</p> <p>In section 101, sub-section (1), the words "with the previous sanction of the Governor-General in Council and may" and the words "without such sanction in any of the cases next hereinafter mentioned" shall be omitted.</p> <p>In sub-section (2) of the said section, for the words from "The cases" to "the following" the following shall be substituted, namely:</p> <p style="padding-left: 40px;">"In particular and without prejudice to the generality of the foregoing power, the Local Government may make such an order in the following cases".</p> <p>In sub-section (3) of section 105, for the words "Government of India" the words "Local Government", and for the words "Gazette of India" the words "local official Gazette" shall be substituted.</p> <p>In section 112, in sub-section (1), the words "with the previous sanction of the Governor-General in Council" and the whole of sub-section (3) shall be omitted.</p>
* 1887	* XII <sup>[1]</sup>	* The Bengal, Agra and Assam Civil Courts Act, 1887.	<p>* For section 4 the following section shall be substituted, namely:—</p> <p style="padding-left: 40px;">"4. The Local Government may alter the number of District Judges, Subordinate Judges and Munsifs now fixed".</p> <p>In sub-section (1) of section 15, after the words "Governor-General in Council" the following shall be inserted, namely:—"in the case of the High Court at Calcutta and by the Local Government in other cases".</p> <p>In clause (b) of section 36(1), the words "with the previous sanction of the Governor-General in Council" shall be omitted.</p>
*		*       *       *	*

## (The First Schedule.)

## Part I.—Acts of the Governor General in Council.

Year.	No.	Short title or subject.	Amendments.
1	2	3	4
1899	XXIV[1]	The Central Provinces Court of Wards Act, 1899.	In clause (c) of section 2, the words "with the previous sanction of the Governor-General in Council" shall be omitted.
1901	VI[2]	The Assam Labour and Emigration Act, 1901.	In clause (b) of section 1(2) and in section 221, for the words "with the previous sanction" the words "subject to the control" shall be substituted.  In sub-section (2) of section 64, for the words "the Governor-General in Council" the words "Local Government" shall be substituted.
*		* * *	*
1903	I[2]	The Amending Act, 1903 ..	In Part II of the Second Schedule in the entry in column 4 against Act XXI of 1896, the words "with the previous sanction of the Governor-General in Council" shall be omitted.
*		* * *	*
1912	VII[2]	The Bengal, Bihar and Orissa and Assam Laws Act, 1912	The proviso to section 3 shall be omitted.
*		* * *	*

[1] Printed in the Supplement to this Code.

[2] Printed *ante*.

(The First Schedule.)

*Part V.—Bengal Acts. Part VIII.—Bihar and Orissa Acts.*

Year.	No.	Short title or subject.	Amendments.
1	2	3	4

PART V.—*Bengal Acts.*

1869	VII[1]	The Bengal Police Act, 1869	In section 5, after the word "sub- ject" the words "in the case of offi- cers of the Indian Police of and above the rank of Assistant Superinten- dent" shall be inserted. *
1904	III[1]	The Bengal Settled Estates Act, 1904.	In sections 7 and 16 (5) the words "with the previous sanction of the Governor-General in Council" shall be omitted.
1908	VI[1]	The Chota Nagpur Tenancy Act, 1908.	In section 265 (1), the words "with the previous sanction of the Govern- ment of India" shall be omitted. *

PART VIII.—*Bihar and Orissa Acts.*

1913	I[2]	The Bihar and Orissa Board of Revenue Act, 1913.	In the proviso to section 3, the words "with the previous sanction of the Government of India" shall be omitted.
1913	II[2]	The Orissa Tenancy Act, 1913.	In sub-section (7) of section 46, the words "subject to the control of the Governor-General in Council" shall be omitted.

In sub-section (1) of section 112, the words "with the previous sanction of the Governor General in Council and may" and the words "without such sanction in any of the cases next hereinafter mentioned" shall be omitted.

In sub-section (2) of the said section, for the words from "The cases" to "the following" the following shall be substituted, namely:—

"In particular and without prejudice to the generality of the foregoing power, the Local Government may make such an order in the following cases".

[1] Printed in Vol. II of this Code.

[<sup>2</sup>] Printed in Vol. III of this Code.

(The First Schedule. The Second Schedule.)

## Part VIII.—Bihar and Orissa Acts.

Year.	No.	Short title or subject.	Amendments.
1913	II[1]	The Orissa Tenancy Act, 1913— <i>concl'd.</i>	<p>In sub-section (3) of section 128, for the words "Governor General in Council" the words "Local Government" and for the words "Gazette of India" the words "local official Gazette" shall be substituted.</p> <p>In sub-section (1) of section 143, the words "with the previous sanction of the Governor General in Council" shall be omitted.</p> <p>In sub-section (3) of the same section, for the words "Governor General in Council", where they occur in both places, the words "Local Government" shall be substituted.</p> <p>In sub-section (1) of section 192, the words "with the previous sanction of the Governor General in Council" and the words "with the like sanction" shall be omitted.</p>
1915	II[1]	The Bihar and Orissa Excise Act, 1915.	<p>In sections 4 and 11, the words "with the previous sanction of the Government of India" shall be omitted.</p> <p>To section 4 the following proviso shall be added, namely:—  "Provided that, where the interests of any other Province may be affected, no such declaration shall be made without the previous sanction of the Government of India".</p> <p>To section 11, the following proviso shall be added, namely:—  "Provided that, where the interests of any other Province may be affected, no notification shall be issued under clause (a) without the previous sanction of the Government of India".</p>

## THE SECOND SCHEDULE

[Repeals.] Repealed by the Repealing Act, 1927 (12 of 1927).

PART III.—LOCAL ACTS OF THE INDIAN LEGISLATURE.

ACT 9 OF 1921.

(THE ENEMY MISSIONS ACT, 1921.)<sup>[1]</sup>

[27th March, 1921.]

**An Act to validate certain indentures transferring properties formerly held by certain Enemy Missions in Trustees, and for the incorporation of such Trustees and for other purposes.**

WHEREAS the Governor General in Council, in exercise of the powers conferred by sections 7 and 12 of the <sup>10 of 1916.</sup> [2] Enemy Trading Act, 1916, vested the properties both moveable and immoveable in British India of the Leipzig Evangelical Lutheran Mission, Madras and Burma, the Schleswig Holstein Evangelical Lutheran Mission, Madras, the Hermansburg Evangelical Lutheran Mission, Madras, the Basel Mission, Madras, Bombay and Coorg, the Gossner Evangelical Lutheran Mission, United Provinces and Bihar and Orissa, the German Evangelical Lutheran Mission, Bihar and Orissa and Assam, and a religious Association in Assam styled the Sisters of the Divine Saviour, in certain Custodians of Enemy Property, and by order directed the said Custodians to transfer the properties thereby respectively vested in them to Boards of Trustees on certain trusts which the said Custodians accordingly purported to do by the several indentures, particulars of which are given in the Schedule hereto annexed; and

WHEREAS the properties comprised in the several indentures have by diverse mesne appointments become vested in the present Trustees of those indentures; and

WHEREAS doubts have risen and may arise as to the validity of certain matters in connection with the above-mentioned transfers; and

WHEREAS it is expedient to terminate such doubts and to constitute the several bodies of Trustees bodies corporate in order that the intention of the said transfers may be fully carried out;

It is hereby enacted as follows:—

Short title.

1. This Act may be called the Enemy Missions Act, 1921.

Incorporation of Trustees.

2. (1) Each body of persons whose names are set out in the fourth column of the Schedule, and the predecessors in office of those persons shall be deemed to have been validly appointed the trustees of the indenture or indentures, as the case may be, described in the Schedule opposite

[1] For Statement of Objects and Reasons, see Gazette of India, 1921, Pt. V, p. 60.

The application of the Act is barred in the district of Angul by the Angul Laws Regulation, 1913 (3 of 1913), s. 3(2), *post*, p. 768; the Sonthal Parganas by the Sonthal Parganas Settlement Regulation (3 of 1872), s. 3(2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, *post*, p. 700.

[2] Repealed by the Repealing Act, 1927 (12 of 1927).



(Sec. 3.)

the names of the persons comprising that body, and each such body of persons, together with the successors in office of those persons, is hereby constituted a body corporate with perpetual succession and a common seal, and may sue and be sued by the corporate name given to it in the fifth column of the Schedule.

(2) For the purposes of the appointment of the successors of the persons named in the fourth column of the Schedule in their office as such trustees, the provisions of the Indian Trusts Act, 1882<sup>[1]</sup>, shall be deemed to apply, and appointments of any trustees which are required to be made by the National Missionary Council of India shall be sufficiently made if made by writing under the hand of the Chairman of that body.

3. Notwithstanding anything contained in any enactment or rule of law to the contrary, the indentures described in the Schedule are hereby declared to have been validly made and the properties respectively transferred, or purporting to be transferred, thereby shall be deemed to have been duly transferred by the said indentures, and all acts or things heretofore done under the said indentures are hereby validated and confirmed, and every obligation imposed or purporting to be imposed on any person mentioned in any of the said indentures shall be binding in law on the person named therein whether such person is or is not a party to such indenture, and the Trustees referred to in sub-section (1) of section 2 shall have power, in conformity with the indentures of which they are respectively trustees, to transfer or otherwise deal with the properties comprised in those indentures.

Validation  
of inden-  
tures, etc.

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[1] Printed in General Acts, 1873-86, Ed. 1928, p. 298.

THE SCHEDULE.[<sup>1</sup>]

(See section 2.)

## Particulars of Indenture and present Trustees thereof.

1	2	3	4	5
Date.	Parties.	Short-effect.	Name and description of the Trustees of each Indenture at the date of the passing of this Act.	Corporate name of the Trustees for the time being of each Indenture from the date of the passing of this Act.
* * * 13th October 1919, Registered at Ranchi on 4th December 1919, being Serial no. 4390 of 1919 in Registration Book 1 of the office of the District Sub-Registrar, Ranchi.	* * * Patrick William Murphy, Custodian of Enemy Property, Bihar and Orissa (therein referred to as the Custodian) of the one part and Blanchard Foley, William Bissil Heycock, the Reverend John Zimmerman Hodge, Professor S. C. Mukharji and the Reverend George James Damm (therein referred to as the Trustees) of the other part.	* * * Being a transfer by the Custodian to the trustees on the Trusts therein mentioned of all property moveable or immovable in the Province of Bihar and Orissa, formerly belonging to or held in Trust for the German Evangelical Lutheran Mission.	* * * Frank Frederick Lyall, Commissioner of Chota Nagpur.  John Tarlton Whitty, Deputy Commissioner of Ranchi.  Herbert Anderson, Secretary, National Missionary Council.  George James Damm, Missionary, Patna.  Satish Chandra Mukharji, Professor, Serampore College.	The Mission Trust of Northern India.
*	*	*	*	*

[<sup>1</sup>] Only so much of the Schedule as relates to the Province of Bihar and Orissa is reproduced here.

ACT 13 OF 1922.

(THE RANCHI MENTAL HOSPITAL ACT, 1922.)<sup>[1]</sup>

(29th March, 1922.)

**An Act to provide for the incorporation of Trustees for the European Hospital for mental diseases at Ranchi, and to make provision for other matters in relation thereto.**

WHEREAS it is expedient to provide for the incorporation of Trustees for the European Hospital for mental diseases at Ranchi, and to make provision for other matters in relation thereto; It is hereby enacted as follows :—

1. (1) This Act may be called the Ranchi Mental Hospital Act, 1922. Short title and commencement.

(2) It shall come into force on such date<sup>[2]</sup> as the Governor General in Council may, by notification in the Gazette of India, appoint.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(a) “ the Board ” means the Board of Trustees for the European Hospital for mental diseases at Ranchi constituted under this Act;

(b) “ the Chairman ” means the Chairman of the Board;

(c) “ the Hospital ” means the European Hospital for mental diseases established at Ranchi in the province of Bihar and Orissa;

(d) “ land ” means land as defined in section 3 of the Land Acquisition Act, 1894;<sup>[3]</sup>

(e) “ the Local Government ” means the Local Government of Bihar and Orissa;

(f) “ the Superintendent ” means the Superintendent of the Hospital appointed by the Local Government; and

(g) “ Trustee ” means a member of the Board.

3. Subject to the provisions of this Act, the entire management and control of the Hospital shall, on and from the date on which this Act comes into force, be vested in a Board to be called “ the Trustees ” Incorporation of Trustees.

<sup>[1]</sup> For Statement of Objects and Reasons, see Gazette of India, 1922, Pt. V, p. 219.

<sup>[2]</sup> The Act came into force on the 1st July, 1922, see Notification no. F-88-1, dated the 27th June, 1922, in Gen. R. and O., Vol. V, p. 87.

The application of the Act is barred in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3(2), as amended by the Sonthal Parganas Justice and Laws Regulation (3 of 1899), s. 3, *post*, p. 700; the district of Angul by the Angul Laws Regulation, 1913 (3 of 1913), s. 3(2), *post*, p. 768.

<sup>[3]</sup> Printed in the General Acts, 1887—1897, Ed. 1928, p. 216.

(Secs. 4-6.)

for the European Hospital for mental diseases at Ranchi," and the Board shall be a body corporate having perpetual succession and a common seal, with power to acquire and hold property both moveable and immoveable and to contract, and shall by the said name sue and be sued.

Constitu-  
tion of the  
Board.

4. (1) The Board shall consist of fourteen Trustees, namely :—

- (a) a Chairman<sup>[1]</sup> appointed by the Local Government;
- (b) four Trustees appointed by the Local Government of Bengal;
- (c) two Trustees appointed by each of the Local Governments of the United Provinces of Agra and Oudh, the Punjab and Bihar and Orissa;
- (d) one Trustee appointed by the Local Government of the Central Provinces;
- (e) one Trustee elected by the Council of the Company which was at the commencement of this Act registered under the Indian Companies Act, 1913,<sup>[2]</sup> by the name of the VII of 1913 European Association; and
- (f) one Trustee elected by the Anglo-Indian and Domiciled European Association (Bengal), Limited.

(2) The Superintendent shall be *ex-officio* Secretary of the Board.

Initial  
loan to  
the Board.

5. (1) On the date on which this Act comes into force, the Governor General in Council shall pay to the Board a sum of three and a half lakhs of rupees by way of loan, which sum shall be repaid by the Board, together with any interest or costs due in respect thereof, in accordance with such terms and conditions as the Governor General in Council may fix.

(2) Any amount which is repaid or is repayable in any year under sub-section (1) shall be taken into account in the calculation of the amount attributable to the cost of maintenance, as defined in section 3 of the Indian Lunacy Act, 1912,<sup>[3]</sup> of the lunatics detained in the IV of 1912 Hospital in that year.

Loans to the  
Board for  
specific  
purposes.

6. (1) The Governor General in Council may, on such terms and conditions as he may fix, make further loans to the Board for the carrying out of any works in connection with the Hospital which have been sanctioned in accordance with the provisions of any rules made

[1] The Commissioner of the Chota Nagpur Division has been appointed as *ex-officio* Chairman—see the B. and O. Local Statutory Rules and Orders, Vol. I, Pt. IV.

[2] Printed in the General Acts, 1910—1913, Ed. 1928, p. 398.

[3] Printed in the General Acts, 1910—1913, Ed. 1928, p. 245.

(Secs. 7-12.)

under this Act, and the Board shall repay the money borrowed, together with any interest or costs due in respect thereof, according to the terms and conditions of the loan.

(2) Save as provided in section 5 and sub-section (1), the Board shall not borrow money upon or otherwise charge its funds.

IV of 1912. 7. On and from the date<sup>[1]</sup> on which the provisions of this Act come into force, all monies payable under the Indian Lunacy Act, 1912,<sup>[2]</sup> on account of the cost of maintenance of any lunatic in the Hospital shall be paid to the Board. Other income.

I of 1894. 8. The Local Government may, at the request of the Board, acquire, under the provisions of the Land Acquisition Act, 1894,<sup>[3]</sup> any land which it is satisfied is required by the Board for the purposes of the Hospital, and, on payment by the Board of the compensation awarded under that Act and of the charges incurred by the Local Government in connection with the proceedings, the land shall vest in the Board. Acquisition of land.

9. Subject to the provisions of this Act and of any rules made hereunder, the Board shall maintain such staff of officers and servants as may in its opinion be necessary for the proper management and up-keep of the Hospital, and shall assign to them such pay and allowances as it thinks fit. Establishment.

10. Where any person in the service of Government is appointed as an officer or servant of the Board, the Board shall— Contributions for pensions, etc.

(a) if his services are wholly lent or transferred, meet in addition to his pay and allowances any charges prescribed or authorised by any rules for the time being in force under the provisions of section 96B of the Government of India Act regarding contributions towards pensions or gratuities and leave allowances, and

(b) if he is employed partly by Government and partly by the Board, meet such proportion of such pay and allowances and charges as may be determined by the Local Government.

XLV of 1860. 11. Every Trustee and every officer and servant of the Board shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. Trustees and servants to be public servants.

12. The Local Government may call upon the Board to furnish it with any extract from any proceedings of the Board or from any record under the control of the Board, or with any statistics concerning the administration of the Hospital, and the Board shall thereupon furnish the same without unreasonable delay. Returns.

[1] See foot-note [2] on p. 679 ante.

[2] Printed in the General Acts 1910—1913, Ed. 1928, p. 245.

[3] Printed in the General Acts, 1887—1897, Ed. 1928, p. 216.

**(Sec. 13.)**

Control and  
supersession  
of the  
Board.

**13.** (1) If the Local Government, after such inquiry as it may deem fit, is satisfied—

(a) that any of the duties imposed or powers conferred upon the Board by or under this Act has not been performed or exercised or has been performed or exercised in an imperfect, inefficient or unsuitable manner; or

(b) that adequate financial provision has not been made for the performance of any such duty or for the proper maintenance of the Hospital;

it may, by order in writing, direct the Board, within such period as may be specified in the order, to make arrangements to the satisfaction of the Local Government for the proper performance of any such duty or the proper exercise of any such power, or to make financial provision to the satisfaction of the Local Government for the performance of any such duty or for the maintenance of the Hospital, as the case may be; and the Board shall thereupon comply with such direction.

(2) On the failure of the Board to comply with any such direction, the Local Government or any person appointed by the Local Government in this behalf may perform such duty or exercise such power or make such provision, as the case may be, and the Local Government may attach the funds of the Board or any portion thereof and may apply the same to meet any charges incurred in the performance of such duty or the exercise of such power, or in the making of such provision, as the case may be.

(3) On the repeated failure of the Board to comply with such directions, or if the Board otherwise exceeds or abuses its powers, the Local Government may, with the previous sanction of the Governor General in Council, by notification in the Gazette of India and in the Bihar and Orissa Gazette, declare the Board to be incompetent or to have exceeded or abused its powers, as the case may be, and direct that the Board shall be superseded for such period as may be specified in the notification.

(4) When the Board is superseded under the provisions of sub-section (3)—

(a) all Trustees shall, from the date of the publication of the notification under that sub-section, vacate their offices as Trustees;

(b) all powers and duties of the Board shall, during the period of supersession, be exercised and performed by such person or persons as the Local Government may appoint in this behalf;

(Secs. 14-16.)

- (c) all funds and other property vested in the Board shall, during the period of supersession, vest in the Local Government on behalf of His Majesty; and
- (d) before the expiration of the period of supersession, elections shall be held and appointments made for the purpose of reconstituting the Board.

(5) If the Local Government is informed by the Governor General in Council that the Board has made default in the repayment of any sum due on account of a loan under section 5 or section 6, the Local Government shall forthwith exercise such of its powers under subsections (1) and (2) as may be necessary for the purpose of enforcing such repayment.

**14.** The Local Government may, with the previous sanction of the Governor General in Council, by notification in the Gazette of India and in the Bihar and Orissa Gazette, declare that, with effect from such date as may be specified in the notification, the Board shall be dissolved, and, on the making of such declaration, all funds and other property vested in the Board shall vest in the Local Government on behalf of His Majesty.

**15.** The Governor General in Council may make rules<sup>[1]</sup> prescribing—

- (a) the qualifications for being appointed a Trustee;
- (b) the circumstances in which and the authority by which any Trustee may be removed;
- (c) the filling of any vacancy in the office of a Trustee, whether temporary or otherwise;
- (d) the term of office of Trustees; and
- (e) the allowances, if any, payable to the Trustees from the funds of the Board on account of attendance at meetings of the Board.

Dissolution  
of the  
Board.Power of  
the Governor  
General  
in Council  
to make  
rules.

**16.** (1) The Local Government may, subject to rules made under section 15, make rules<sup>[2]</sup> for the purpose of carrying into effect all or any of the provisions of this Act.

Power of  
the Local  
Government  
to make  
rules.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

- (a) for fixing the minimum number of meetings of the Board during any year;

[1] For rules framed under s. 15, see Gen. R. and O., Vol. V, p. 87.

[2] For rules framed under s. 16, see the B. and O. Local Statutory Rules and Orders, Vol. 1, Pt. IV.

**(Sec. 16.)**

- (b) for requiring the maintenance by the Board or the Managing Committee of the Board of a record of all business transacted and the submission of copies of such record to the Local Government or to any other specified authority;
- (c) for defining the powers of the Board, the Managing Committee of the Board, the Chairman and the Superintendent, respectively, to enter into contracts which shall be binding on the Board, and the manner in which such contracts shall be executed;
- (d) for sanctioning works in connection with the Hospital and for prescribing the preparation of estimates of such works before work is commenced and the authority by which such estimate shall be sanctioned;
- (e) for the procedure to be observed in calling for and considering tenders;
- (f) for requiring the preparation of schedules of the staff of officers and servants of the Board;
- (g) for defining the powers of the Board, the Managing Committee of the Board, the Chairman and the Superintendent, respectively, in respect of the appointment, promotion and dismissal of officers and servants of the Board, and in respect of the creation and abolition of appointments of such officers or servants;
- (h) for regulating the grant of leave to officers and servants of the Board, and the payment of leave allowances to such officers and servants, and the remuneration to be paid to any person appointed to act for any officer or servant to whom leave is granted;
- (i) for regulating the payment of pensions, gratuities, compassionate allowances and travelling allowances to officers and servants of the Board;
- (j) for prescribing the establishment and maintenance of a provident fund for the officers and servants of the Board, and for the deduction of subscriptions to such provident fund from the pay and allowances of such officers or servants, other than Government servants whose services have been lent or transferred to the Board;
- (k) for prescribing the preparation of budget estimates of the annual receipts and expenditure of the Board and of supplementary estimates of expenditure not included in the budget estimates, and the manner in which such estimates shall be sanctioned and published;



## (Sec. 17.)

- (l) for defining the powers of the Board, the Managing Committee of the Board, the Chairman and the Superintendent, respectively, in regard to the expenditure of the funds of the Board, whether provision has or has not been made in the budget estimates or by re-appropriation for such expenditure, and in regard to the re-appropriation of estimated savings in the budget estimates of expenditure;
- (m) for prescribing the maintenance of accounts of the receipts and expenditure of the Board and providing for the audit of such accounts;
- (n) for prescribing the manner in which payments are to be made by or on behalf of the Board, and the officers by whom orders for making deposits or investments or for withdrawals or disposal of the funds of the Board shall be signed; and
- (o) for determining the custody in which the current account of the Board shall be kept, and the bank or banks at which surplus monies at the credit of the Board may be deposited at interest, and the conditions on which such monies may be otherwise invested.

17. Subject to any rules made under sections 15 and 16, the Board may, with the previous sanction of the Local Government, make rules<sup>[1]</sup> to provide for all or any of the following matters, namely :—

- (a) for the constitution of a Managing Committee and the delegation thereto of any powers exercisable under this Act by the Board;
- (b) for prescribing the method of appointment, removal and replacement and the term of office of members of the Managing Committee, and for the filling of vacancies therein;
- (c) for the appointment of the dates, times and places for meetings of the Board and the Managing Committee, and for regulating the procedure to be observed at such meetings;
- (d) for determining the amount and nature of the security, if any, to be demanded from officers or servants of the Board, and the circumstances in which such security may be demanded;
- (e) for determining the times at which, and the circumstances in which, payments may be made out of the provident fund, and the conditions on which such payments shall relieve the fund from further liability;

[1] For rules framed under s. 17, see the B. and O. Statutory Rules and Orders, Vol. I, Pt. IV.

(Secs. 18-21.)

- (f) for determining the contribution, if any, payable from the funds of the Board to the provident fund;
- (g) for regulating generally all matters incidental to the provident fund and the investment thereof; and
- (h) for defining the powers and duties of the Secretary of the Board.

Rules to be made after previous publication.

**18.** All rules made under this Act shall be made subject to the condition of previous publication, and shall be published in the Gazette of India and in the Bihar and Orissa Gazette, and on such publication shall have effect as if they were enacted in this Act.

Notice of suits against the Board, etc.

**19.** No suit shall be instituted against the Board or any Trustee or any officer or servant of the Board, or any person acting under the direction of the Board or of the Chairman or of any such officer or servant, in respect of any act purporting to be done under this Act or any rule made hereunder until the expiration of one month after written notice has been delivered or left at the office of the Board or at the office or place of abode of such officer or servant, stating the cause of action, the name and place of abode of the complainant and the relief which he claims, and unless the plaint contains a statement that such notice has been so delivered or left.

Validation.

**20.** No act done or proceedings taken under this Act shall be questioned on the ground merely of—

- (a) the existence of any vacancy in or any defect in the constitution of the Board or the Managing Committee; or
- (b) any person having ceased to be a Trustee; or
- (c) any omission, defect or irregularity not affecting the merits of the case.

Classification of Hospital.

**21.** For all the purposes of the Indian Lunacy Act, 1912,<sup>[1]</sup> the Hospital shall be deemed to be an asylum established by the Government.

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[1] See foot-note [3] on p. 679 *ante*.

ACT 22 OF 1923.

(THE MALKHARODA AND GAONTIA VILLAGES LAWS ACT, 1923.)<sup>[1]</sup>

(2nd April, 1923.)

**An Act to declare the law in force in certain territories of the district of Sambalpur and to provide that the past administration of those territories shall not be called in question on the ground that they were not included in the territories administered by the Government of the Central Provinces.**

WHEREAS by Proclamation published under notification no. 2833, Preamble. dated the first day of September, 1905, the Governor-General in Council was pleased to declare and appoint that, with effect from the sixteenth day of October, 1905, the district of Sambalpur (except the Chandarpur-Padampur *Zamindari* and the Phuljhar *Zamindari*) which then formed part of the Central Provinces, should cease to form part of those Provinces and should be included within the limits of the Bengal Division of the Presidency of Fort William; and

WHEREAS by Proclamation published under notification no. 289, dated the twenty-second day of March, 1912, the Governor-General in Council, with the sanction of His Majesty, was pleased to constitute certain territories, including the said district of Sambalpur, a province under the name of the Province of Bihar and Orissa; and

WHEREAS it has appeared that by the abovementioned Proclamations certain territories were included within the Presidency of Fort William in Bengal and thereafter within the Province of Bihar and Orissa which territories have nevertheless continued to be administered in all respects as if they had continued to be included in the Central Provinces; and

WHEREAS the Governor-General in Council has, by notification no. F-950 (Public), dated the eighth day of March, 1923, and made under section 60 of the Government of India Act with the approval of the Secretary of State for India in Council, been pleased to declare and appoint that the said territories shall again be included in the Central Provinces; and

WHEREAS it is expedient to declare the law which shall be applicable to the said territories and to provide that nothing done by any authority, executive or judicial, in, for or in relation to the said territories since the sixteenth day of October, 1905, shall be brought in question on the ground that the said territories did not form part of the Central Provinces; and to transfer the said territories from the jurisdiction of

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[1] For Statement of Objects and Reasons, see Gazette of India, 1923, Pt. V, p. 123.

LOCAL EXTENT.—This Act extends to certain territories in the district of Sambalpur mentioned in the preamble and cited in the Schedule.

## (Secs. 1-5.)

the High Court of Judicature at Patna to the jurisdiction of the Court of the Judicial Commissioner of the Central Provinces; It is hereby enacted as follows :—

Short title.      1. This Act may be called the Malkharoda and Gaontia Villages Laws Act, 1923.

Declaration of law in force in the said territories.      2. Notwithstanding anything contained in the Bengal, Bihar and Orissa and Assam Laws Act, 1912,<sup>[1]</sup> the territories specified in the Schedule (hereinafter referred to as the said territories) shall not be deemed to be included within the Province of Bihar and Orissa and nothing in that Act shall be deemed to be applicable to the said territories; but all enactments made by any authority in British India, and all notifications, orders, schemes, rules, forms and bye-laws issued, made or prescribed under such enactments, which immediately before the commencement of this Act were in force in the Central Provinces and would have been in force in the said territories if they had been part of the Bilaspur district of the Central Provinces shall be in force in the said territories.

Transference of said territories to the jurisdiction of the Court of Judicial Commissioner. Central Provinces.      3. On and from the commencement of this Act, the High Court of Judicature at Patna shall cease to exercise within the said territories the jurisdiction and powers which the said High Court exercises from time to time within the limits of the places for which the said High Court was established; and the said territories are hereby declared for all the purposes of the Central Provinces Courts Act, 1917, <sup>[2]</sup> to form part of the territories to which that Act extends.

Indemnity.      4. No suit or other legal proceeding whatsoever, whether civil or criminal, shall lie against any officer of the Government or against any person acting under the orders of any such officer for or on account of or in respect of any act, matter or thing ordered or done in or in relation to the said territories on the ground that the said territories were not, at the time at which such act, matter or thing was so ordered or done, included in the Central Provinces or that the law in force in the said territories was not at such time the law in force in the said Provinces, but was the law in force in the Sambalpur district of the Bengal Division of the Presidency of Fort William in Bengal or in the Sambalpur District of the Province of Bihar and Orissa.

Validity of decrees, etc.      5. No Court or authority, whether civil, criminal or revenue, shall entertain any suit, claim, appeal or application whatsoever for the re-trial of any suit or case tried by any Court in the Central Provinces, or shall reverse, annul, amend, declare invalid, or refuse to give effect to, anything done by any such Court or by any authority whatsoever established in the Central Provinces, or shall annul, amend, declare invalid, or refuse to give effect to, any notification, order, rule, bye-law,

[1] Printed *ante*, p. 644.

[2] Printed in O. P. Code, Ed. 1924.

instrument or document whatsoever, merely on the ground that at the time at which such suit or case was tried, or such thing was done, or such notification, order, rule, bye-law, instrument or document was issued, made or executed, the said territories were not included in the Central Provinces or that the law in the said territories was not at such time the law for the time being in force in the Central Provinces, but was the law for the time being in force in the Sambalpur district of the Bengal Division of the Presidency of Fort William in Bengal or in the Sambalpur district of the Province of Bihar and Orissa

# THE SCHEDULE.

(See section 2.)

## Malkharoda Jagir

Serial no.	Name of village.	Settlement number.	Patwar Circle.	Total area of the village in acres
1	2	3	4	5
1	Ameradih ...	1190	262	402.80
2	Kurda ...	1278	261	1,376.39
3	Kurdi ...	1279	261	323.65
4	Kalmi ...	1249	263	1,041.14
5	Charpara ...	1392	263	639.77
6	Chhapora ..	1418	261	1,385.13
7	Dongridhi ..	1479	261	335.87
8	Nnagaon ...	1553	262	832.88
9	Pirdha ...	1606	261	1,469.92
10	Pihirid ...	1608	262	1,776.70
11	Bardhata ..	1663	261	244.90
12	Birbhata ...	1687	263	362.73
13	Bhatora ...	1722	262	830.96
14	Mohtara ...	1797	262	809.21
15	Malkharoda .	1770	263	1,445.48
16	Mukta ...	1776	263	901.72
17	Sipat (Bad)	1872	261	1,871.96
18	Sipat (San)	1873	262	618.53
19	Sarasdol ...	1866	262	581.78
20	Sendaras ...	1893	262	1,364.35
Total		...	..	18,615.87

## Gaontia Villages.

Serial no	Name of village	Settlement number.	Patwar Circle	Total area of the village in acres
1	2	3	4	5
1	Kuhakunda ..	1287	254	616.57
2	Chharia ...	1419	278	665.85
3	Jogni ...	1441	257	701.09
4	Thakurpali ..	1460	287	149.45
5	Panchpurgia ..	1570	257	38.27
6	Panchpurgia ...	1571	252	24.10
7	Brahmapura ...	1664	285	63.11
8	Badimal ..	1675	284	1,233.92
9	Mahadebpali	1761	280	205.58
	Total ...	.		3,698.27

ACT 27 OF 1925.

[THE OPIUM (AMENDMENT) ACT, 1925.][<sup>1</sup>]

(21st September, 1925.)

**An Act further to amend the Opium Act, 1857.**

13 of  
1857.

WHEREAS it is expedient further to amend the Opium Act, 1857, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. (1) This Act may be called the Opium (Amendment) Act, 1925. Short title  
and com-

(2) It shall come into force on such date<sup>[2]</sup> as the Governor-General in Council may, by notification in the Gazette of India, appoint. mencement.

13 of  
1857.

2. The Opium Act, 1857, is hereby amended to the extent and in the manner mentioned in the Schedule. Amendment  
of Act 13  
of 1857.

3. Any appointment, notification, order, rule or form made, issued or sanctioned, before the commencement of this Act, by an authority for the making, issuing or sanctioning of which a new authority is substituted by or under this Act shall, unless inconsistent with this Act, be deemed to have been made, issued or sanctioned by such new authority unless and until superseded by an appointment, notification, order, rule or form made, issued or sanctioned by such new authority. Saving of  
appoint-  
ments, etc.  
made by  
previous  
authorities.

[<sup>1</sup>] Legislative Papers.—For Statement of Objects and Reasons, see Gazette of India, 1925, Part V, p. 221.

Local Extent.—The local extent of this Act is the same as that of Act 13 of 1857, as to which see footnote [<sup>1</sup>] on p. 334, *ante*.

[<sup>2</sup>] This Act was brought into force on the 1st April 1926—see notification no. C.—477-E. O./25, dated the 27th January 1926, in Gazette of India, Part I, p. 206.

**4. (Repeal.)** *Repealed by the Repealing Act, 1927.*

**THE SCHEDULE.**

(See section 2.)

*Amendments to be made in the Opium Act, 1857.*

1. For section 3 the following section shall be substituted, namely :—

3.[Printed *ante*, p. 335.]

2. In sections 4, 5, 8, 12, 13 and 15, for the words “ the Board of Revenue ” the word “ Government ” shall be substituted.

3. For section 6 the following section shall be substituted, namely :—

6.[Printed *ante*, p. 335.]

4. In section 7,—

(a) the words “ The Board of Revenue with the sanction of ” shall be omitted;

(b) for the words “ With the like sanction they ” the word “ Government ” shall be substituted; and

(c) in the last paragraph, for the words “ the Board of Revenue ” the word “ Government ” shall be substituted.

5. In sections 8, 9, 10, 11, 12, 18, 21, 23 and 26, for the words “ Sub-deputy Agents ” and “ Sub-deputy Agent ” the words “ district opium officers ” and “ district opium officer ”, respectively, shall be substituted.

6. In section 11, for the words “ other district officers ” the words “ other officers duly authorised to receive such opium ” and for the words “ of the district ” the word “ other ” shall be substituted.

7. In section 12, for the words “ other district officer ” the words “ other officer authorised as aforesaid ”, and for the words “ district officer ”, where they occur in the second paragraph, the words “ receiving officer ” shall be substituted.

8. In sections 13 and 14, for the word “ district ” the word “ receiving ” shall be substituted.

9. In section 15,—

(a) for the words “ district officer ” the words “ district opium officer ”, and

(b) in the third paragraph, for the words “ the Board ” the word “ Government ” shall be substituted.



10. In section 16, for the words " district officers " the words " district opium officers or other officers duly authorised in this behalf ", and for the words " district officer " where they occur in two places the words " adjusting officer " shall be substituted.

11. In section 18, for the words " other district officer on his behalf " the words " other officer duly authorised in this behalf " shall be substituted.

12. In section 22, for the words " sub-deputies " the words " the district opium officers " shall be substituted.

13. In section 30, for the words " Board of Revenue " the words " Opium Agent " and for the word " them " the word " him " shall be substituted.

14. In section 31, for the words " Sub-Deputy Opium Agent " the words " district opium officer " shall be substituted.

15. After section 13, the following section shall be added, namely:—

32.[Printed *ante*, p. 342.]

ACT 31 OF 1927.

[THE ASSAM LABOUR AND EMIGRATION (AMENDMENT) ACT, 1927.][<sup>1</sup>]

(23rd September, 1927)

**An Act further to amend the Assam Labour and Emigration Act, 1901,  
for certain purposes.**

WHEREAS it is expedient further to amend the Assam Labour and 6 of  
Emigration Act, 1901, for certain purposes hereinafter appearing, it is 1901  
hereby enacted as follows —

Short title.      **1.** This Act may be called the Assam Labour and Emigration  
(Amendment) Act, 1927

Amendment      **2.** For sub-section (2) of section 116E of the Assam Labour and 6 of  
of section      Emigration Act, 1901 (hereinafter referred to as the said Act), the 1901  
116E, Act      following sub-section shall be substituted namely —  
6 of 1901.

[*Printed ante*, p. 579.]

Validation      **3.** Where any sum has been paid as cess under section 116E of the  
of recoveries      said Act before the commencement of this Act, notwithstanding that it  
prior to com-      was not so payable, and such sum would have been payable if this Act  
mencement      had been in force at the time of the payment, such sum shall be  
of this Act.      deemed to have been legally due as cess, and no claim shall lie in any  
Court for its refund.

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[<sup>1</sup>] LEGISLATIVE PAPERS —For statement of Objects and Reasons, see Gazette of  
India, 1927, Part V, p. 224

LOCAL EXTENT —The local extent of this Act is the same as that of Act 6 of 1901,  
as to which see footnote [<sup>1</sup>] on p. 554 *ante*.

The Act is in force in the Sonthal Parganas, see Vol. IV, Part IV, but its  
application is barred in the Angul district by the Angul Laws Regulation, 1913 (3 of  
1913), s. 3(2), *post*, p. 768

## ACT 2 OF 1930.

(THE DANGEROUS DRUGS ACT, 1930.)<sup>[1]</sup>

(1st March, 1930).

**An Act to centralise and vest in the Governor General in Council the control over certain operations relating to dangerous drugs and to increase and render uniform throughout British India the penalties for offences relating to such operations.**

WHEREAS India participated in the Second International Opium Conference, which was convoked in accordance with the resolution of the Assembly of the League of Nations dated the 27th day of September, 1923, met at Geneva on the 17th day of November, 1924, and on the 19th day of February, 1925, adopted the Convention relating to Dangerous Drugs (hereinafter referred to as the Geneva Convention);

AND WHEREAS India was a State signatory to the said Geneva Convention;

AND WHEREAS the Contracting Parties to the said Geneva Convention resolved to take further measures to suppress the contraband traffic in and abuse of Dangerous Drugs, especially those derived from opium, Indian hemp and coca leaf, such measures being more particularly set forth in the Articles of the said Geneva Convention;

AND WHEREAS for the effective carrying out of the said measures it is expedient that the control of certain operations relating to Dangerous Drugs should be centralised and vested in the Governor General in Council;

AND WHEREAS it is also expedient that the penalties for certain offences relating to Dangerous Drugs should be increased, and that all penalties relating to certain operations should be rendered uniform throughout British India;

It is hereby enacted as follows :—

### CHAPTER 1.

#### PRELIMINARY.

1. (1) This Act may be called the Dangerous Drugs Act, 1930.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) It shall come into force on such date<sup>[2]</sup> as the Governor General in Council may, by notification in the Gazette of India, appoint.

\* \* \* \* \*

[1] LEGISLATIVE PAPERS.—For statement of Objects and Reasons, see Gazette of India, 1928, Pt. V, p. 138.

Only that portion of the Act which relates to amendments in the Bihar and Orissa Excise Act, 1915 (B. & O. Act 2 of 1915), printed in Vol. IV of this Code, is reproduced here.

[2] This Act came into force on the 1st February 1931, see Gazette of India, 1931, Pt. I, p. 35.

The application of the Act is barred in the Angul district by the Angul Laws Regulation, 1913 (3 of 1913), s. 3(2), *post*, p. 768.

Short title,  
extent and  
commence-  
ment.

(Secs. 40-41, Schedule II.)

## CHAPTER V.

## MISCELLANEOUS.

Amend-  
ment of  
certain  
enactments

**40.** The enactments specified in the first three columns of Schedule II are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

Saving of  
things al-  
ready done

**41.** When anything done under any enactment specified in the first three columns of Schedule II is in force immediately prior to the commencement of this Act, it shall be deemed, as from the commencement of this Act, to have been done under this Act or under that enactment as hereby amended, as the case may require.

SCHEDULE II.[<sup>1</sup>]

## AMENDMENTS OF LOCAL ACTS.

(See section 40.)

*Bihar and Orissa Act.*

Year.	No.	Short title or subject.	Amendments.
1	2	3	4
*	*	*	*
1915	II[2]	The Bihar and Orissa Excise Act, 1915.	<p>In section 2,—</p> <p>(a) Clause (4) shall be omitted ;</p> <p>(b) to the definition of "export" in clause (10) the following proviso shall be added, namely :—</p> <p>"Provided that, in the case of intoxicating drugs specified in sub-clauses (i), (ii) and (iii) of clause (13), it means to export inter-provincially, as defined in clause (1) of section 2 of the Dangerous Drugs Act, 1930."</p>

[<sup>1</sup>] Only so much of the Schedule as relates to enactments printed in this Code is reproduced here.

[<sup>2</sup>] Printed in vol. III of this Code.

## (Schedule II.)

Year.	No.	Short title or subject.	Amendments.
1	2	3	4
1915	II	The Bihar and Orissa Excise Act, 1915— <i>contd</i>	<p>(c) to the definition of "import" in clause (12) the following proviso shall be added, namely :—</p> <p>" Provided that, in the case of intoxicating drugs specified in sub-clauses (i), (ii) and (iii) of clause (13), it means to import inter-provincially, as defined in clause (j) of section 2 of the Dangerous Drugs Act, 1930";</p> <p>(d) the definition of "hemp plant" in clause (11) shall be omitted ; and</p> <p>(e) for the definition of "intoxicating drug" in clause (13) the following definition shall be substituted, namely :—</p> <p>' intoxicating drug ' means—</p> <p>(i) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (<i>Cannabis sativa</i> L.) including all forms known as <i>bhang</i>, <i>siddhi</i> or <i>ganja</i> ;</p> <p>(ii) <i>charas</i>, that is, the resin obtained from the hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport ;</p> <p>(iii) any mixture, with or without neutral materials, of any of the above forms of intoxicating drug, or any drink prepared therefrom ; and</p>

## (Schedule II.)

Year.	No.	Short title or subject.	Amendments.
1	2	3	4
1915	II	The Bihar and Orissa Excise Act, 1915— <i>consolid.</i>	<p>(iv) any other intoxicating or narcotic substance which the Local Government may, by notification, declare to be an intoxicating drug, such substance not being opium, coca leaf, or a manufactured drug, as defined in section 2 of the Dangerous Drugs Act, 1930".</p> <p>Section 3 shall be omitted.</p> <p>In clauses (b) and (c) of section 13, the words "or any cocaine-yielding plant of the genus <i>Erythroxylon</i>" shall be omitted.</p> <p>In clause (d) of sub-section (1) of section 42, after the words "of any offence punishable", where they occur for the second time, the words "under the Dangerous Drugs Act, 1930, or" shall be inserted.</p> <p>In section 47,—</p> <p>(a) in clauses (b) and (c), the words "or any cocaine-yielding plant of the genus <i>Erythroxylon</i>" shall be omitted; and</p> <p>(b) the words "or, if the excisable article in respect of which an offence under clause (a), or clause (f) or clause (h) has been committed is cocaine, to imprisonment for a term which may extend to one year, or to fine which may extend to two thousand rupees, or to both" shall be omitted.</p> <p>In section 60, the words "other than cocaine" shall be omitted.</p>
*	*	*	*

# PART IV.—REGULATIONS MADE UNDER THE GOVERNMENT OF INDIA ACT.

REGULATION No 3 of 1872

(THE SONTHAL PARGANAS SETTLEMENT REGULATION, 1872.)

## CONTENTS.

### SECTION.

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- 5A. Re-transfer of suits to Civil Court
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8. Court fees Act not applicable to certain suits
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10. Power to appoint Settlement-officers
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- 27A. Limitation of rent suits
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28. Penalties.

### THE SCHEDULE.

## REGULATION No. 3 OF 1872.<sup>[1]</sup>

(THE SONTHAL PARGANAS SETTLEMENT REGULATION.)

[8th May. 1872.]

### A Regulation for the peace and good government of the territory known as the Sonthal Parganas.

Short title.      **1.** This Regulation may be called the Sonthal Parganas Settlement Regulation.

Local extent.      **2.** It extends to the whole of the Sonthal Parganas as described in the Schedule <sup>[2]</sup> attached to Act X of 1857 and in the Notification <sup>[3]</sup> of the Governor General in Council, no. 478, dated 12th March, 1872.

Commence-  
ment.      It shall come into force on the first day of May, 1872.

Construc-  
tion.      It shall be read with Act XXXVII of 1855<sup>[4]</sup> and Act X of 1857<sup>[4]</sup>.

Enactments  
in force in  
the Sonthal  
Parganas.      <sup>[5]</sup>**3.** (1) The enactments specified in the Schedule shall be deemed to be in force in the Sonthal Parganas<sup>[6]</sup>, except—

(a) such portions of such enactments as have been repealed by any enactment specified in the Schedule, and

(b) in the case of any enactment passed before the 25th day of August, 1886, such portions thereof as had on that day been repealed in the territories to which the enactment generally applies.

(2) No other enactment, heretofore or hereafter passed, shall, unless the Sonthal Parganas be expressly named therein, be deemed to apply to the said Parganas, except so far as regards the trial and determination of the civil suits referred to in section 2 of Act XXXVII of 1855, <sup>[8]</sup>

[1] LOCAL EXTENT.—This Regulation extends only to the Sonthal Parganas, as described in the Schedule printed at the end of the Sonthal Parganas Act, 1855 (37 of 1855) *ante*—see s. 2 of the Regulation. The Regulation is formally included in the Schedule of laws in force in these Parganas—see *post*, p. 724.

AMENDMENTS.—The Sonthal Parganas Rent Regulation, 1886 (2 of 1886), is to be read with, and be taken as supplementary to this Regulation—see Regulation 2 of 1886, s. 1 (3), *post*, p. 727. The Sonthal Parganas Settlement Regulation, 1904 (2 of 1904), is also to be read with, and taken as part of, this Regulation—see Regulation 2 of 1904, s. 1 (2), *ibid*, p. 749.

[2] The Schedule is printed *ante*, p. 330, and the Notification is published in the Gazette of India, 1872, Part I, p. 240. The descriptions in the Schedule and the Notification are identical.

[3] The Sonthal Parganas Act, 1855. It is printed *ante*, p. 328.

[4] The Sonthal Parganas Act, 1857. It is printed *ante*, p. 332.

[5] This section was substituted for the original s. 3 [as amended by the Sonthal Parganas Laws Regulation, 1886 (3 of 1886), by s. 3 of the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), *post*, p. 748.

[6] See further notification of the Government of India no. 1-G., dated the 3rd January, 1921, Gazette of India (Extra.) 1921, p. 44, declaring the district of the Sonthal Parganas to be a "backward tract" under sub-section (2) of section 52 of the Government of India Act.



(Secs. 4-5.)

12 of 1887. in which the matter in dispute exceeds the value of one thousand rupees, when such suits are tried in Courts established under the Bengal, [1] [Agra] and Assam Civil Courts Act, 1887.[2]

(3) Notwithstanding anything hereinbefore contained, the Local Government may, by notification in the Calcutta Gazette,—

- (a) declare that any other enactment [3] shall be deemed to be in force in the Sonthal Parganas,
- (b) withdraw any such declaration, or
- (c) with the previous sanction of the Governor General in Council, declare that any enactment specified in the Schedule shall cease to be in force in the Sonthal Parganas.

4. [Power to invest officers with Civil Court powers.] Rep. by the Sonthal Parganas Justice Regulation, 1893 (V of 1893).

12 of 1887. [4]5. (1) From the date on which, under section 9, the Lieutenant-Governor declares, by a notification in the Calcutta Gazette, that a settlement shall be made of the whole or any part of the Sonthal Parganas, until the date on which such settlement is declared, by a like notification, to have been completed, no suit shall be in any Civil Court established under the Bengal, [1]Agra and Assam Civil Courts Act, 1887, in regard to—

Bar of Civil Courts during settlement.

- (a) any land or any interest in, or arising out of, land, or
- (b) the rent or profits of any land, or
- (c) any village headship or other office connected with any land.

in the area covered by such first-mentioned notification; nor shall any Civil Court proceed with the hearing of any such suit which may be pending before it.

37 of Between the dates referred to in sub-section (1), all suits of the nature therein described shall be filed before or transferred to an officer appointed by the Lieutenant-Governor under section 2 of the Sonthal Parganas Act, 1855, [5] or section 10 of this Regulation, according as the Lieutenant-Governor may from time to time direct; and such officer shall hear and, even though during the hearing the settlement may be declared to have been completed, determine them.

[1] The word "Agra" has been substituted for the words "North-Western Provinces"—see the Bengal, Agra and Assam Civil Courts (Amendment) Act, 1911 (16 of 1911), s. 2, post, p. 643.

[2] Printed ante, p. 514.

[3] For a list of enactments declared to be deemed to be in force in the Sonthal Parganas, under this clause, see Vol. IV, Part IV of this Code.

[4] The ss. 5 and 5A here printed were substituted for the original s. 5 by the Sonthal Parganas Settlement (Amendment) Regulation, 1908 (3 of 1908), s. 2, post, p. 752.

[5] Printed ante, p. 328

(Secs. 5A-6.)

Re-transfer  
of suits to  
Civil Court.

[<sup>1</sup>] 5A. (1) Notwithstanding anything contained in section 5, whenever it appears to any officer empowered thereby to try any such suit to be just and expedient that the suit or any issue arising therein should be tried by a Civil Court established under the Bengal, Agra and Assam Civil Courts Act, 1887, [<sup>2</sup>] which but for that section would have had jurisdiction to try the suit, he may, either on the prayer of the parties or of his own motion but subject to the control of the officers to whom he is subordinate, make a certificate to that effect and transfer the record, if any to such Court. 12 of 1887

(2) On receipt of any such certificate and on payment of such court-fees as would have been payable if the suit had been originally filed in such Court (if the said fees have not already been paid), the Court shall proceed to hear and determine such suit or issue as if the suit had been originally instituted therein.

(3) Any issue so transferred shall be dealt with, and shall be charged with court-fees, as if it were a separate suit.

(4) The decision of the said Court in any such suit or issue shall be deemed to be a decree within the meaning of section 2 of the Code of Civil Procedure, [<sup>3</sup>] and shall be carried into effect in the manner 14 of 1882 provided by law for the execution of decrees of such Court.

(5) Every such decision, and every decision given in appeal therefrom, shall be certified by the said Court to the officer by whom the certificate mentioned in sub-section (1) was made, or to such officer as the Lieutenant-Governor may appoint in this behalf; and its purport, so far as relevant, shall thereupon be entered in the record-of-rights.

Usury.

6. All Courts having jurisdiction in the Sonthal Parganas shall observe the following rules relating to usury, namely :—

(a) interest on any debt or liability for a period exceeding one year shall not be decreed at a higher rate than two *per cent. per mensem*, notwithstanding any agreement to the contrary, and no compound interest arising from any intermediate adjustment of account shall be decreed;

(b) the total interest decreed on any loan or debt shall never exceed one-fourth of the principal sum, if the period be not more than one year, and shall not in any other case exceed the principal of the original debt or loan.

[1] Section 5A is new—see foot-note [4] on p. 701, *ante*.

[2] Printed *ante*, p. 514.

[3] This reference should now be taken to be made to s. 2 of the Code of Civil Procedure, 1908 (5 of 1908)—see s. 158 thereof.

(Secs. 7-11.)

[<sup>1</sup>]*Explanation.*—The expression “intermediate adjustment of account” in clause (a) of this section means any adjustment of account which is not final, and includes the renewal of an existing claim by bond, decree or otherwise when, without the passing of fresh consideration, the original claim is increased by such renewal.

[<sup>1</sup>]*Illustration.*—A bond is given for Rs. 75, of which Rs. 25 are interest. Unless the obligee can prove to the satisfaction of the Court that he gave such consideration for the bond as rendered the transaction fair and equitable, of the Rs. 75, Rs. 50 only will bear interest, and the limit of the claim on the bond will be Rs. 100.]

7. Agreements between cultivators or headmen of villages and the persons to whom rent is payable by them, respecting such rent or regulating their respective rights in the land for which such rent is payable, shall not be liable to any stamp. Exemption of agreements from stamp duty.

8. The Court-fees Act, 1870,<sup>[2]</sup> shall not be applicable to any suit or other proceeding before any officer making a settlement \* \* \* \* \*<sup>[3]</sup>. Court-fees Act not applicable to certain suits. Power to order settlement.

9. The Lieutenant-Governor may <sup>[4]</sup> [from time to time], by notification in the Calcutta Gazette declare <sup>[5]</sup> that a settlement shall be made of the whole or any part of the Sonthal Parganas for the purpose of ascertaining and recording the various interests and rights in the lands.

10. The Lieutenant-Governor may appoint the officers by whom the settlement is to be made, and may invest any officer or officers with the control over them by way of appeal and revision, and may make rules for the procedure of such officers in the investigation into rights in the land and the hearing of suits, and generally for the guidance of such officers. Power to appoint Settlement-officers.

The Lieutenant-Governor may reserve to himself an ultimate power of revision in respect of any cases decided in any Settlement Court.

11. Except as provided in section [25A], <sup>[6]</sup> no suit shall lie in any Civil Court regarding any matter decided by any Settlement Court under Bar to jurisdiction of Civil Courts.

[1] The *Explanation* and *Illustration* were added to s. 6 by the Sonthal Parganas Justice Regulation, 1892 (5 of 1892), s. 24, *post*, p. 746.

[2] Printed in the General Acts, 1834-72, Ed. 1928, p. 286.

[3] The words “or before any officer appointed under Act 37 of 1855, and regarding any matter which he is authorised to adjudicate in anticipation of settlement under s. 26 of this Regulation” were repealed by the Sonthal Parganas Settlement (Amendment) Regulation, 1908 (3 of 1908), s. 3, *post*, p. 752, and are omitted.

[4] These words in square brackets in s. 9 were inserted by the Sonthal Parganas Rent Regulation, 1886 (2 of 1886), s. 4, *post*, p. 728.

[5] As to the apportionment of expenses when a declaration is made under s. 9 of this Regulation, see the Sonthal Parganas Settlement Regulation, 1904 (2 of 1904), *post*, p. 749.

[6] The figures and letter “25A” were substituted for the figures “25” by the Sonthal Parganas Settlement (Amendment) Regulation, 1908 (3 of 1908), s. 4, *post*, p. 752.

(Secs. 12-13.)

these rules; but the decisions and orders of the Settlement Courts made under these rules, regarding the interests and rights above mentioned, shall have the force of a decree of Court.

Inquiry into  
landed  
rights.

**12.** The Settlement-officers shall have power to inquire into, to decide and to record the rights of the *zamindars* and other proprietors, the rights of the tenants or *rai-yats*, the rights of the *mánjhis* or other headmen as against both the proprietors and the tenants, and also any other landed rights to which, by the law or custom of the country or of any tribe, any person may have legal or equitable claim :

Provided that no claim shall be heard to any rights or interests of which the claimant has not held possession either himself or through persons from whom he claims at some time since the first day of January, 1859.

Form of  
record-of-  
rights.

**13.** The record-of-rights to be prepared by a Settlement-officer shall show the nature and incidents of each right and interest held by each class of occupiers or owners in a village; or if need be, of each individual owner, occupier or headman in a village.

[<sup>1</sup>] [For every village shall be drawn up a paper setting forth the custom of the village or tribe in regard to the following facts :—

- (a) the existence of the office of *mánjhi* or other village headship, and the duties and emoluments of each headman, and the customs of succession to the headship by inheritance, election or otherwise;
- (b) the removal or suspension of a headman for misconduct, and the appointment or election to a vacant headship;
- (c) the devolution of the lands held by proprietors or under-proprietors or headmen or cultivated by *rai-yats*, any custom contrary to the ordinary Hindu or Muhammadan law being noted;
- (d) the tenure of houses in the village, and the payment of ground-rents and dues by non-cultivating residents;
- (e) the duties and dues of village-watchmen and other village-servants, and their succession to, and removal from, office;
- (f) the management and usufruct of the waste-land and other matters relating to the internal arrangement of villages;

and the said paper shall be deemed to form part of the record-of-rights.]

[<sup>1</sup>] These clauses in square brackets were added by the Sonthal Parganas Settlement (Amendment) Regulation, 1908 (3 of 1908), s. 5, *post*, p. 752.

(Secs. 14-17.)

**14.** The Settlement-officer shall give due notice to the people of a village for which he is about to prepare a record-of-rights, so that all persons interested may bring forward their claims either in writing or by verbal application.

Notice  
when  
record-of-  
rights about  
to be  
prepared.

But the Settlement-officer shall inquire into, settle and record all rights in, or claims to, the lands of a village of which he is preparing a record-of-rights, even though such claims or rights may not be urged by the parties interested.

**15.** The Settlement-officer shall demarcate and define the boundaries of each village, and when doing so, he may exclude from such village any large area of waste or forest which may be beyond the reasonable requirements of the village :

Demarcation  
of excess  
waste.

Provided that no block of waste-land or forest of which the people of the village have hitherto had the use shall be excluded from such village if before such exclusion one-third of the total area of the village is cultivated or is fallow in due course of agricultural rotation, according to the practice of the country.

The exclusion of any waste-land from any village under this provision shall not affect any proprietary rights in the land, but such rights shall remain intact.

**16.** Any decision regarding the rights of the *mánjhis* or other village-headmen, passed by any officer appointed under Act XXXVII of 1855,[<sup>1</sup>] which may on due inquiry be found by the Settlement-officer to have been passed under a misapprehension as to the laws in force in the Sonthal Parganas, or without sufficient inquiry into, and regard for, the customs of the country and of the people, may be reviewed and modified by such Settlement-officer.

Review of  
decisions  
regarding  
rights of  
village head-  
men.

**17.** In deciding the status, rights and claims of *mánjhis* or other village-headmen, the Settlement-officer shall have regard to the following rules :—

*Mánjhis* or  
village  
headmen.

(a) Any *mánjhi* or other headman of a village who may have lost his office, or the management of his village, for whatever cause, or in whatever manner, on any date after the thirty-first December, 1858, shall be eligible for reinstatement in such headship, and in the lease or management of the village, if he has a fair and equitable claim thereto :

(b) No claim to be recorded as *mánjhi* or headman with an occupancy-right in the lease or management of a village shall be conclusively shut out by reason of the claimant having been described as a *mustájr* or farmer in any deed to which such claimant may have been a party :

[1] The Sonthal Parganas Act, 1855. It is printed, *ante*, p. 328.

## (Sec. 18.)

(c) If the rent now payable by any *mánjhi* or headman of a village appear to the Settlement-officer inequitable, by reason that such person has rights independent of contract, or that he was not in a position fairly and freely to contract, the Settlement-officer may modify and abate such rent and fix a fair and equitable rent. If the rent appear to the Settlement-officer to be too low, he may enhance such rent either immediately or prospectively on the termination of any existing agreement. The rent payable by any *mánjhi*, farmer or other headman of a village shall be determined on a consideration of the rates of rent payable in the neighbourhood, and of the number of ploughs at work in the village, and of such other matters as may appear to the Settlement-officer to afford ground for an equitable decision. If necessary, the cultivated and uncultivated land in such village may be measured.

Rights of  
*raiya*s or  
cultivators.

18. In deciding the status, rights and claims of *raiya*s or occupiers, the Settlement-officer shall have regard to the following rules :

(a) Any *raiya*t who may, either himself or through persons from whom he inherits, have held fields in a village for a period of twelve years shall be deemed to have occupancy-rights in such fields :

[<sup>1</sup>][Provided that occupancy-rights shall not be acquired in- -

(a) land acquired under the Land Acquisition Act, 1894<sup>[2]</sup>, for the Government or for any local authority or for a railway company, while such lands remain the property of the Government, or of any local authority or railway company, or

(b) land recorded or demarcated as belonging to the Government or any local authority which is used for any public work, such as a road, canal or embankment, or is required for the repair and maintenance of the same, while such land continues to be so used or required.]

(b) Any *raiya*t who, having possessed a right of occupancy or an equitable claim to occupancy, has lost possession of his land or any portion of his land since the thirty-first day of December, 1858, may claim to be replaced in possession of such land, and to be recorded as possessing occupancy-rights therein, if in the opinion of the Settlement-officer he is justly entitled thereto :

(c) Any *raiya*t who has exchanged fields for other fields in the same village shall be held to have acquired an occupancy-right in the field taken in exchange in the same manner as if no exchange had taken place :

(d) Where *raiya*s holding lands under a *mánjhi* or other headman of a village pay their share of the village-rent according to any fixed

[1] This proviso was added by the Sonthal Parganas Settlement (Amendment) Regulation, 1928 (1 of 1928), s. 2, printed *post*, p 798.

[2] Printed in the Unrepealed General Acts, 1887-97, Ed. 1928, p. 216.

## (Secs. 19-24.)

custom or proportion, or where the share of rent payable by each *raiyyat* is fixed annually or periodically by the village elders or in any other way, the existence of such custom shall be recorded.

(c) When the *raiyyats* of any village pay rent either direct to the proprietor or to his agent, or to any farmer, or to a *mánjhi*, the Settlement-officer shall record such rents if they are fair and equitable. If such rents appear to the Settlement-officer to be unfair and inequitable, he shall inquire into and shall re-settle such rents; and he may make such re-settlement of rents, either according to the number of ploughs owned by each *raiyyat*, or according to the area of the cultivated land held by him or in any other manner which may be customary and equitable.

**19.** [Term for rents.] Rep. by the Sonthal Parganas Rent Regulation, 1886 (II of 1886), s. 5.

**20.** In adjusting rents as between proprietors and *mánjhis* or other headmen and between proprietors, farmers or headmen, and *raiyyats*, the Settlement-officer may, in connection with other circumstances, have regard to the agricultural skill and habits of life of the class or tribe to which the rent-payers may belong

Special considerations in adjusting rents

**21.** In any case in which the headmen or the *raiyyats* or the persons through whom they claim reclaimed the land from forest or waste, regard shall be had to such fact in settling the rents.

Settlement of rent of land reclaimed from forest or waste

**22.** The Settlement-officer shall decide, and shall enter in the village record-of-rights, the several instalments of yearly rent and the dates on which such instalments shall be payable by the *raiyyats* and by the *mánjhis* or headmen.

Instalments of rent

If the number and dates of the existing instalments press hardly upon the people of any village, the Settlement-officer shall have power to reduce the number and alter the dates of such instalments.

The amount and dates of the instalments shall remain unaltered until otherwise ordered by the Lieutenant-Governor

[<sup>1</sup>]**23.** [Record of village customs.] Rep. by the Sonthal Parganas Settlement (Amendment) Regulation, 1908 (III of 1908).

**24.** After the Settlement-officer shall have made the record-of-rights for any village, he shall notify and publish the contents of such record to the persons interested by posting it conspicuously in the village and otherwise in such manner as may be convenient

Publication or record-of-rights

Any person interested shall thereupon be allowed to bring forward

Objections against such record.

[<sup>1</sup>] Papers prepared under s. 23 before its repeal are by s. 7 of Reg. 3 of 1908 (post p. 752), deemed to form, and always to have formed, part of the record-of-rights.

[<sup>2</sup>] The words in square brackets were substituted for the words "in the Original or Appellate Settlement Courts" by the Sonthal Parganas Settlement (Amendment) Regulation, 1908 (3 of 1908), s. 8 (a), post, p. 752.

(Secs. 25-25A.)

date of publication of such record-of-rights] any objection he may desire to make to any part of such record; and the objection so made shall be inquired into and disposed of by a decision in writing under the hand of the officer presiding in the Court \* \* \* \* [1].

Record to  
be final  
after six  
months'  
publica-  
tions.

[2]25. (1) After a period of six months from the date of the publication of the record-of-rights of any village, such record shall be conclusive proof of the rights and customs therein recorded, other than the rights mentioned in section 25A, except so far as concerns entries in such record regarding which objections by parties interested may still be pending in the Original or Appellate Courts, or may still be open to appeal.

(2) Notwithstanding anything contained in sub-section (1), the Settlement-officer may, at any time before the settlement is declared by a notification in the Calcutta Gazette to have been completed,—

(a) inquire into and correct any material error in such record;  
and

(b) revise any order or decision passed by himself or by an Assistant Settlement-officer :

Provided that no such order or decision shall be so revised where any order passed by the Commissioner is likely to be affected by such revision, or where an appeal from such order or decision is pending before the Commissioner :

Provided, further, that no material error shall be corrected and no decision or order shall be revised, until reasonable notice has been given to the parties concerned to appear and be heard in the matter

(3) When a record-of-rights has become final, or any objection to any entry in a record-of-rights has been finally disposed of in the Settlement Courts, and when all final decisions and orders, including such as may have been passed on revision as provided in sub-section (2) have been correctly embodied therein, such record shall not, until a fresh settlement is made or a new table of rates and rent-tolls are prepared, be re-opened without the previous sanction of the Lieutenant-Governor. But in case of the discovery of material error, it shall be lawful for the Lieutenant-Governor to direct that the record of any village shall be revised.

Suits to  
contest  
Settlement-  
officer's  
decision.

[2]25A. Where only the rights of zamindars and other proprietor as between themselves are concerned, a suit may, unless it is barred by 14 of 1882, section 13 of the Code of Civil Procedure,[3] be brought in a Court established under the Bengal, Agra and Assam Civil Courts Act,

[1] The words "before which such objection may be urged or brought on appeal or otherwise" were repealed by the Sonthal Parganas Settlement (Amendment) Regulation, 1908 (3 of 1908), s. 8 (a) *post*, p. 752, and are omitted.

[2] Ss. 25 and 25A here printed were substituted for the original s. 25 by s. 9 of *ibid.*

[3] This reference to s. 13 of Act 14 of 1882 should now be taken to be made to s. 11 of the Code of Civil Procedure, 1908 (5 of 1908)—*see* s. 158 thereof.



(Secs. 26-27A.)

12 of 1887. 1887,[<sup>1</sup>] to contest the finding or record of the Settlement-officer, within three years from the date of the publication of the record-of-rights, or of the final order of the Revenue Court. But no such suit shall be brought in any Court after the expiration of three years from such date.

If in any such suit it is found that the finding of the Settlement-officer is erroneous, the record shall be amended accordingly.

[<sup>2</sup>]26. Where the claim in any suit of the nature described in section 25 was included in any plaint on which court-fees have been paid, and the suit, having been transferred under section 5, has been heard and determined by a Settlement-officer, the fees so paid shall be taken into account in determining the fee chargeable in respect of such suit. Courts-fees in suits contesting finding of the settlement officer.

[<sup>2</sup>]27. (1) No transfer by a raiyat of his right in his holding or any portion thereof, by sale, gift, mortgage, lease or any other contract or agreement, shall be valid unless the right to transfer has been recorded in the record-of-rights, and then only to the extent to which such right is so recorded. Transfer of raiyats' rights.

(2) No transfer in contravention of sub-section (1) shall be registered, or shall be in any way recognized as valid by any Court, whether in the exercise of civil, criminal or revenue jurisdiction.

(3) If at any time it comes to the notice of the Deputy Commissioner that a transfer in contravention of sub-section (1) has taken place, he may, in his discretion, evict the transferee and either restore the transferred land to the *raiya*t or any heirs of the *raiya*t who has transferred it, or re-settle the land with another *raiya*t according to the village custom for the disposal of an abandoned holding :

Provided—

(a) that the transferee whom it is proposed to evict has not been in continuous cultivating possession for twelve years,

(b) that he is given an opportunity of showing cause against the order of eviction, and

(c) that all proceedings of the Deputy Commissioner under this section shall be subject to control and revision by the Commissioner.

9 of 1908. [<sup>3</sup>]27A. Notwithstanding anything contained in the Indian Limitation Act, 1908[<sup>4</sup>], the period of limitation for a suit for arrears of rent brought by a proprietor against a headman shall be one year from the date on which the arrears became due]. Limitation for rent suits.

[1] Printed *ante*, p. 514.

[2] Ss. 26, 27 and 28 here printed were substituted for the original s. 26 by the Sonthal Parganas Settlement (Amendment) Regulation, 1908 (3 of 1908), s. 10, *post*, p. 753.

[3] This section was inserted by the Sonthal Parganas Settlement (Amendment) Regulation 1925 (7 of 1925), s. 2, *post*, p. 305.

[4] Printed in the General Acts, 1895-1909, Ed. 1928, p. 324.

(Secs. 27B-28.)

Proprietor  
to furnish  
annual  
statement  
of payments  
and arrears  
of rent.

[<sup>1</sup>][27B. The proprietor shall, within one month after such date and in such form as the Local Government may by notification prescribe, give the headman a statement showing all payments, if any, made by the headman during the year ending on the aforesaid date, the manner in which such payments have been credited by the proprietor in his accounts, the balance, if any, remaining unpaid by the headman at the end of the said year and the interest claimed by the proprietor.]

Penalties.

[<sup>2</sup>][28. If any person,—

- (a) being a proprietor, fails to repair and maintain any *khas*, dykes, drains or tanks which he is bound, by any custom entered in the record-of-rights, to repair and maintain, or,
- (b) being a proprietor or a headman, exacts from any *raiyyat* toll, *abwabs*, *salami*, *kuyali*, forced labour or the like, the exaction of which is forbidden by any such custom, or,
- (c) being a headman, fails to perform any of the prescribed police-duties, or,
- (d) being a proprietor or a headman, fails to repair, with the assistance of the *raiyyats*, any dykes, drains, tanks, village-paths or boundary-marks which he and they are bound, by any custom entered in the record-of-rights, to repair, or fails to preserve any of the recorded camping or grazing grounds, or,
- (e) being a proprietor or a headman, fails to report to competent authority any transfer of village-land made in contravention of section 27, sub-section (1), or,
- (f) being a *raiyyat*, fails to assist the proprietor or headman in the repair of any village dykes, drains, tanks, paths or boundary-marks which he is bound, by any custom entered in the record-of-rights, to assist the proprietor or headman in repairing, or encroaches on any of the recorded camping or grazing grounds, or,
- (g) being a proprietor, headman or *raiyyat*, cuts down any village-trees which he is forbidden by any such custom to cut, or otherwise uses, or prevents the use of, village forest in contravention of any such custom, or,

[<sup>3</sup>][(h) being a proprietor, without reasonable cause fails to give to a headman the statement for any year in accordance with the provisions of section 27B,]

he shall be liable to a fine which may extend to fifty rupees, and in the case of a continuing offence, to a further fine not exceeding one rupee for each day during which the offence continues.

[1] This section was inserted by the Sonthal Parganas Settlement (Amendment) Regulation, 1925 (7 of 1925), s. 2, *post* p. 795.

[2] See footnote [2] on p. 709, *ante*.

[3] This clause was added by the Sonthal Parganas Settlement (Amendment) Regulation, 1925 (7 of 1925), s. 3, *post* p. 798.

## THE SCHEDULE [1]

## ENACTMENTS IN FORCE IN THE SONTAL PARGANAS

(See section 3)

1	2	3	4
Year	Number	Short title or subject	Whole or part.
<i>Part I—Regulations of the Bengal Code</i>			
1793	I	The Bengal Permanent Settlement Regulation, 1793	The whole
"	VIII	The Bengal Decennial Settlement Regulation, 1793	Ditto
"	XIX	Non-Badshahi Lakhraji Grants	Ditto
"	XXXVII	Badshahi Lakhraji Grants	Ditto
"	XXXVIII	The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1793.	Ditto
1798	I	Conditional Sales ..	Ditto.
1800	VIII	Pargana Register . . .	Section 19.
1801	I	Realization of Revenue .	The whole.
[2]	[2]*	* * *	*
1806	XI	The Bengal Troops, Transport and Travellers' Assistance Regulation, 1806	The whole.
"	XVII	Interest, Redemption	Ditto
1810	XX	Military Bazaars	Ditto
1812	V	Collection of Land-Revenue .	Ditto.
"	XI	The Bengal Foreign Immigrants Regulation, 1812.	Ditto.
"	XVIII	Leases by Proprietors, Partitions	Ditto.
1814	XXIX	Ghatwali Mahals . . .	Ditto.
1817	XII	Patwaris . . .	Ditto.
1818	III	The Bengal State Prisoners Regulation, 1818	Ditto.
1819	I	Kanungos and Patwaris ..	Ditto.
"	II	Resumption of Revenue .	Ditto.
"	VIII	The Bengal Patni Taluks Regulation, 1819	Ditto.
1820	I	The Bengal Patni Taluks Regulation, 1820	Ditto.
1823	VII	The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1823	Ditto.

[1] This Schedule was substituted for the former Schedule by the Sontal Parganas Justice and Laws Regulations, 1899 (3 of 1899), s 3, *post*, p 748

[4] The entry relating to the Bengal State Offices Regulation, 1804 (10 of 1804), repealed by the Special Laws Repeal Act, 1922 (4 of 1922), is omitted

## (The Schedule.)

ENACTMENTS IN FORCE IN THE SONTHAL PARGANAS—*contd.*

Year.	Number.	Short title or subject.	Whole or part.
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*Part I.—Regulations of the Bengal Code—concl.*

1825	VI	The Bengal Troops Transport Regulation, 1825.	The whole.
	XI	The Bengal Alluvion and Diluvion Regulation, 1825.	Ditto.
	XIII	Kanungos .. ..	Ditto.
	XIV	Lakhiraj Tenures .. ..	Ditto.
1829	XVII	The Bengal Sati Regulation, 1829	Ditto.

*Part II.—Acts of the Governor General of India in Council.*

1836	XXI	Zilas	The whole.
1837	IV	The Property in Land Act, 1837..	Ditto.
1841	XII	Revenue Arrears .. ..	Section 2.
1843	V	The Indian Slavery Act, 1843 ..	The whole.
1847	IX	Assessment of new lands ..	Ditto.
1848	XX	Enforcement of attendance of landholders.	Ditto.
1850	XII	The Public Accountants' Defaults Act, 1850.	Ditto.
	XVIII	The Judicial Officers Protection Act, 1850.	Ditto.
	XXI	The Caste Disabilities Removal Act, 1850.	Ditto.
	XXV	The Forfeited Deposits Act, 1850	Ditto.
[ <sup>1</sup> ] 1850	XXXIV	* * * The State Prisoners Act, 1850..	The whole.
	XXXVII	The Public Servants (Inquiries) Act, 1850.	Ditto.
	VIII	The Indian Tolls Act, 1851 ..	Ditto.
		The Landholders' Public Charges and Duties Act 1850	Ditto.

[<sup>1</sup>] The reference to Act 33 of 1850 (Patni Tenures), which was repealed by the Amending Act, 1903 (1 of 1903), is omitted.

## (The Schedule)

ENACTMENTS IN FORCE IN THE SONTHAL PARGANAS—*contd*

1	2	3	4
Year.	Number.	Short title or subject	Whole or part.
<i>Part II — Acts of the Governor General of India in Council—contd</i>			
1853	VI	The Rent Recovery Act, 1853 .	The whole
1855	XII	The Legal Representatives' Suits Act, 1855	Ditto.
"	XIII	The Indian Fatal Accidents Act, 1855	Ditto
"	XXIV	The Penal Servitude Act, 1855 ..	Ditto
"	XXXVII	Sonthal Parganas . . .	Sections 1, 2 and 3.
1856	XI	The European Deserters Act, 1856	The whole.
"	XV	The Hindu Widows Re-marriage Act, 1856	Ditto.
1857	X	Sonthal Parganas .. ..	Ditto
"	XIII	Opium .. ..	Ditto.
1858	III	The State Prisoners Act, 1858 ..	Ditto
"	XXXI	Alluvion .. ..	Ditto.
"	[ <sup>1</sup> ]XXXV	The Lunacy (District Courts) Act, 1858.	Ditto.
"	[ <sup>1</sup> ]XXXVI	The Indian Lunatic Asylums Act, 1858.	Ditto.
1859	V	Ghatwali Lands, Birbhum ..	Ditto
"	XI	Sales of Land for Arrears of Revenue	Ditto.
"	[ <sup>2</sup> ] XIV	Summary Dispossession ..	Section 15.
1860	IX	The Employers and Workmen (Disputes) Act, 1860	The whole
"	XLV	The Indian Penal Code ..	Ditto
1861	V	The Police Act, 1861 ..	Ditto.

[<sup>1</sup>] Act 35 of 1858 and Act 36 of 1858 are repealed by the Indian Lunacy Act 1912 (4 of 1912), which extends to the Sonthal Parganas

[<sup>2</sup>] Act 14 of 1859 has ceased to be in force in the Sonthal Parganas See Notification no. 197-J R, dated the 17th May 1929, at p. 65, Vol. II, B & O Local Statutory Rules and Orders.

## (The Schedule.)

ENACTMENTS IN FORCE IN THE SONTHAL PARGANAS—*contd.*

1	2	3	4
Year.	Number.	Short title or subject.	Whole or part.
<i>Part II.—Acts of the Governor General of India in Council—contd.</i>			
[ <sup>1</sup> ]			
[ <sup>2</sup> ]1863	XVI	<i>The House (Spirits) Act, 1863</i> .	<i>The whole.</i>
1864	III	<i>The Foreigners Act, 1864</i> .	<i>Ditto.</i>
„	[3]VI	<i>The Whipping Act, 1864</i> ..	<i>Ditto.</i>
„	XV	<i>The Indian Tolls Act, 1864</i> ..	<i>Ditto.</i>
1865	III	<i>The Carriers Act, 1865</i> ..	<i>Ditto.</i>
„	[ <sup>4</sup> ]X	<i>The Indian Succession Act, 1865</i>	<i>Ditto.</i>
1866	XXI	<i>The Native Converts' Marriage Dissolution Act, 1866.</i>	<i>Ditto.</i>
1867	XXV	<i>The Press and Registration of Books Act, 1867.</i>	<i>Ditto.</i>
1869	IV	<i>The Indian Divorce Act, 1869</i> ..	<i>Ditto.</i>
„	[ <sup>5</sup> ] V	<i>The Indian Articles of War</i> ..	<i>Ditto.</i>
[ <sup>6</sup> ]	*	* * *	*
1869	[ <sup>6</sup> ]XX	<i>The Indian Volunteers Act, 1869</i>	<i>The whole.</i>
1870	VII	<i>The Court-fees Act, 1870</i> ..	<i>Ditto.</i>
„	XX	<i>The Court-fees Act (1870) Amendment Act, 1870.</i>	<i>Ditto.</i>
„	[ <sup>4</sup> ]XXI	<i>The Hindu Wills Act, 1870</i> ..	<i>Ditto.</i>
„	[ <sup>7</sup> ]XXIII	<i>The Indian Coinage Act, 1870</i> ..	<i>Ditto.</i>
„	XXVII	<i>The Indian Penal Code Amendment Act, 1870.</i>	<i>Ditto.</i>

[<sup>1</sup>] Act 16 of 1861 (the Stage-Carriages Act, 1861) has since been declared in force in the Sonthal Parganas by Notification No. 1981-J., dated the 12th March 1901, in Calcutta Gazette, 1901, Pt. I, p. 1.

[<sup>2</sup>] Act 16 of 1863 was repealed by Ben. Act. 5 of 1909, which was declared in force in the Sonthal Parganas. Ben Act 5 of 1909 is repealed by the Bihar and Orissa Excise Act, 1915 (B. & O. Act 2 of 1915), which extends to the Sonthal Parganas.

[<sup>3</sup>] Act 6 of 1864 is repealed by the Whipping Act, 1909 (4 of 1909), which extends to the Sonthal Parganas.

[<sup>4</sup>] Acts 10 of 1865 and 21 of 1870 are repealed by the Indian Succession Act, 1925 (39 of 1925), which has been declared in force in the Sonthal Parganas.

[<sup>5</sup>] Acts 5 and 20 of 1869 are repealed by the Indian Army Act, 1911 (8 of 1911), and the Auxiliary Force Act, 1920 (49 of 1920), respectively, of which the former has been declared in force in the Sonthal Parganas and the latter extends to the Sonthal Parganas.

[<sup>6</sup>] The reference to Act 15 of 1869 (Prisoners Testimony), which was repealed by the Amending Act, 1903 (1 of 1903), is omitted.

[<sup>7</sup>] Act 23 of 1870 is repealed by Act 3 of 1900, which extends to the Sonthal Parganas.

## (The Schedule.)

ENACTMENTS IN FORCE IN THE SONTHAL PARGANAS—*contd*

1	2	3	4
Year	Number	Short title or subject	Whole or part.

*Part II.—Acts of the Governor General of India in Council—contd.*

1871	I	The Cattle trespass Act, 1871 .	The whole.
"	[1]V	The Prisoners Act, 1871 .	Ditto
"	XXIII	The Pensions Act, 1871 ..	Ditto.
1872	I	The Indian Evidence Act, 1872 ..	Ditto.
"	III	The Special Marriage Act, 1872 ..	Ditto.
"	IX	The Indian Contract Act, 1872 ..	Ditto.
"	XV	The Indian Christian Marriage Act, 1872	Ditto.
"	XVIII	The Indian Evidence Act Amend- ment Act, 1872.	Ditto.
"	XIX	The Indian Penal Code Amend- ment Act, 1872	Ditto.
1873	V	The Government Savings Banks Act, 1873.	Ditto.
"	X	The Indian Oaths Act, 1873 ..	Ditto.
1874	[ <sup>2</sup> ]II	<i>The Administrator General's Act, 1874.</i>	<i>Ditto.</i>
"	III	The Married Women's Property Act, 1874	Ditto.
"	IX	The European Vagrancy Act, 1874	Ditto.
1875	XIII	The Probate and Administration Act, 1875.	Ditto
1877	[ <sup>3</sup> ]II	<i>The Probate and Administration Act, 1877.</i>	<i>Ditto.</i>
"	[ <sup>4</sup> ]III	<i>The Indian Registration Act, 1877</i>	<i>Ditto</i>

[1] Only section 15 of Act 5 of 1871 is now in force in the Sonthal Parganas, the rest of the Act having been repealed by the Prisoners Act, 1900 (3 of 1900), which extends to the Sonthal Parganas.

[<sup>2</sup>] Act 2 of 1874 is repealed by the Administrator General's Act, 1913 (8 of 1913), which extends to the Sonthal Parganas.

[<sup>3</sup>] Act 2 of 1877 is repealed by the Probate and Administration Act, 1903 (8 of 1903), which has been declared in force in the Sonthal Parganas.

[<sup>4</sup>] Act 3 of 1877 is repealed by the Indian Registration Act, 1908 (16 of 1908), which has been declared in force in the Sonthal Parganas.

## (The Schedule.)

ENACTMENTS IN FORCE IN THE SONTHAL PARGANAS—*contd*

Year. Number. Short title or subject. Whole or part.

*Part II.—Acts of the Governor General of India in Council—contd.*

1877	[ <sup>1</sup> ]XV	<i>The Indian Limitation Act, 1877</i>	<i>The whole.</i>
1878	I	<i>The Opium Act, 1878</i> ..	<i>Ditto.</i>
"	VI	<i>The Indian Treasure Trove Act, 1878.</i>	<i>Ditto.</i>
"	[ <sup>2</sup> ]VII	<i>The Indian Forest Act, 1878</i> .	<i>Ditto.</i>
"	XI	<i>The Indian Arms Act, 1878</i> ..	<i>Ditto.</i>
1879	[ <sup>3</sup> ]III	<i>The Destruction of Records Act, 1879.</i>	<i>Ditto.</i>
"	[ <sup>4</sup> ]XI	<i>The Local Authorities Loans Act, 1879.</i>	<i>Ditto.</i>
"	[ <sup>5</sup> ]XII	<i>The Registration and Limitation Acts Amendment Act, 1879.</i>	Sections 104 to 108.
"	[ <sup>6</sup> ]XXI	<i>The Foreign Jurisdiction and Extradition Act, 1879.</i>	<i>The whole.</i>
1880	[ <sup>7</sup> ]VIII	<i>Correction of a clerical error in the Limitation Act, 1877.</i>	<i>Ditto.</i>
1881	[ <sup>8</sup> ]V	<i>The Probate and Administration Act, 1881.</i>	<i>Ditto.</i>
[ <sup>9</sup> ] [10]	*	* * * *	*
1882	VII	<i>The Powers of Attorney Act, 1882</i>	<i>The whole.</i>
"	VIII	<i>The Indian Penal Code Amendment Act, 1882.</i>	<i>Ditto.</i>
[10]	*	* * * *	*
1882	XII	<i>The Indian Salt Act, 1882</i> ..	<i>The whole, except section 31</i>

[<sup>1</sup>] Act 15 of 1877 is repealed by the Indian Limitation Act, 1908 (9 of 1908), which has been declared in force in the Sonthal Parganas.

[<sup>2</sup>] Act 7 of 1878 is repealed by the Indian Forest Act, 1927 (16 of 1927), which has been declared in force in the Sonthal Parganas.

[<sup>3</sup>] Act 3 of 1879 is repealed by the Destruction of Records Act, 1917 (5 of 1917), which has been declared in force in the Sonthal Parganas.

[<sup>4</sup>] Act 11 of 1879 is repealed by the Local Authorities Loans Act, 1911 (9 of 1914), which extends to the Sonthal Parganas.

[<sup>5</sup>] Act 12 of 1879 is repealed by the Indian Registration Act, 1908 (16 of 1908), which has been declared in force in the Sonthal Parganas.

[<sup>6</sup>] Act 21 of 1879 is repealed by the Indian Extradition Act, 1903 (15 of 1903), which extends to the Sonthal Parganas.

[<sup>7</sup>] Act 8 of 1880 was repealed by the Presidency Small Cause Courts Law Amendment Act, 1888 (10 of 1888), before this Schedule was enacted.

[<sup>8</sup>] Act 5 of 1881 is repealed by the Indian Succession Act, 1925 (39 of 1925), which has been declared in force in the Sonthal Parganas.

[<sup>9</sup>] Act 26 of 1881 (The Negotiable Instruments Act, 1881) has since been declared in force in the Sonthal Parganas by Notification no. 195-J.T., dated the 28th May, 1920, in B. & O Gazette, 1920, Pt. II, p. 836.

[<sup>10</sup>] The references to Acts 1 of 1882 (Assam Labour and Emigration) and 9 of 1882 (Prisoners), which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.



## (The Schedule.)

## ENACTMENTS IN FORCE IN THE SONTHAL PARGANAS—contd.

1	2	3	4
Year.	Number.	Short title or subject.	Whole or part.
<i>Part II.—Acts of the Governor General of India in Council—contd.</i>			
1882	[ <sup>1</sup> ]XIV	<i>The Code of Civil Procedure ..</i>	<i>Sections 223 to 228.</i>
"	[ <sup>2</sup> ]XX	<i>The Indian Paper Currency Act, 1882.</i>	<i>The whole.</i>
1883	XIX	<i>The Land Improvement Loans Act, 1883.</i>	<i>Ditto.</i>
"	[ <sup>3</sup> ]XXI	<i>The Indian Emigration Act, 1883</i>	<i>Ditto.</i>
1884	IV	<i>The Indian Explosives Act, 1884</i>	<i>Ditto.</i>
1885	VIII	<i>The Bengal Tenancy Act, 1885 ..</i>	<i>Section 84[<sup>4</sup>].</i>
"	IX	<i>The Excise and Sea Customs Law Amendment Act, 1885.</i>	<i>Sections 3[<sup>5</sup>] and 4[<sup>6</sup>].</i>
"	XIII	<i>The Indian Telegraph Act, 1885</i>	<i>The whole.</i>
"	[ <sup>7</sup> ]XV	<i>The Local Authorities Loans Act (1879) Amendment Act, 1885.</i>	<i>Ditto.</i>
"	XVIII	<i>The Land Acquisition (Mines) Act, 1885.</i>	<i>Ditto.</i>
1886	[ <sup>8</sup> ]II	<i>The Indian Income-tax Act, 1886</i>	<i>Ditto.</i>
"	IV	<i>The Indian Contract Act (1872) Amendment Act, 1886.</i>	<i>Section I.</i>
"	VI	<i>The Births, Deaths and Marriages Registration Act, 1886.</i>	<i>The whole.</i>
"	[ <sup>9</sup> ]VII	<i>The Indian Registration Act, 1886</i>	<i>Ditto.</i>

[<sup>1</sup>] Act 14 of 1882 is repealed by Act 5 of 1908 (the Code of Civil Procedure, 1908), s. 156, which is in force in the Sonthal Parganas.

[<sup>2</sup>] Act 20 of 1882 is repealed by the Indian Paper Currency Act, 1905 (3 of 1905), which extends to the Sonthal Parganas. For later Acts in force in the Sonthal Parganas, see Vol. IV of this Code.

[<sup>3</sup>] Act 21 of 1883 is repealed by the Indian Emigration Act, 1908 (17 of 1908), which has been declared in force in the Sonthal Parganas. For later Acts in force in the Sonthal Parganas, see Vol. IV of this Code.

Bengal Government Notification no. 771-L.R., dated the 20th February 1897, extending s. 84 of the Bengal Tenancy Act, 1885, was withdrawn by Notification no. 2568-T.R., dated the 18th October, 1907.

[<sup>4</sup>] Also section 56 and clauses (1) and (3) of section 58, as amended by Ben. Act 1 of 1907—see Notifications No. 1338, dated the 1st March 1904, in Calcutta Gazette, 1904, Pt. I, p. 347 and no. 548 L.R., dated the 30th January 1913 in the Bihar and Orissa Local Statutory Rules and Orders.

[<sup>5</sup>] Section 3 of Act 9 of 1885 is repealed by the Bengal Excise Act, 1909 (Ben. Act 5 of 1909), which has been declared in force in the Sonthal Parganas. For later Acts in force in the Sonthal Parganas, see Vol. IV of this Code.

[<sup>6</sup>] Section 4 of Act 9 of 1885 is repealed by the Amending Act, 1903 (1 of 1903), which has been declared in force in the Sonthal Parganas.

[<sup>7</sup>] Act 15 of 1885 is repealed by the Local Authorities Loans Act, 1914 (9 of 1914), which extends to the Sonthal Parganas.

[<sup>8</sup>] Act 2 of 1886 was repealed by the Indian Income-tax Act, 1918 (7 of 1918), which extended to the Sonthal Parganas. For later Acts in force in the Sonthal Parganas, see Vol. IV of this Code.

[<sup>9</sup>] Act 7 of 1886 is repealed by the Indian Registration Act, 1908 (16 of 1908), which has been declared in force in the Sonthal Parganas.

## (The Schedule.)

ENACTMENTS IN FORCE IN THE SONTHAL PARGANAS- *contd.*

1	2	3	4
Year.	Number.	Short title or subject.	Whole or part.

*Part II.—Acts of the Governor General of India in Council contd.*

1886	X	The Indian Criminal Law Amendment Act, 1886.	Sections 21 to 25 <sup>[1]</sup> .
"	[ <sup>2</sup> ]XVIII	The Indian Lunatic Asylums Act (1858) Amendment Act, 1886.	The whole, except section 3.
1887	III	The Indian Evidence Act (1872) Amendment Act, 1887.	The whole.
[ <sup>3</sup> ]	[ <sup>3</sup> ]		
1887	[ <sup>4</sup> ]XX	The Wild Birds Protection Act, 1887.	Ditto.
[ <sup>5</sup> ]	*	* * * *	*
1888	[ <sup>6</sup> ]VII	The Civil Procedure Code Amendment Act, 1888.	So much as relates to Acts III and XV of 1877.
1889	[ <sup>7</sup> ]VI	The Probate and Administration Act, 1889.	The whole.
"	[ <sup>7</sup> ]VII	The Succession Certificate Act, 1889.	Ditto.
1889	[ <sup>2</sup> ]XX	The Indian Lunatic Asylums Act (1858) Amendment Act, 1889.	Ditto.
1890	I	The Revenue Recovery Act, 1890	Ditto.
"	[ <sup>7</sup> ]II	The Probate and Administration Act, 1890.	Section 9 to 16.
"	[ <sup>8</sup> ]V	The Forest Act, 1890.	Section 1, sub-section (1), section 2 and section 4.
"	VI	The Charitable Endowments Act, 1890.	The whole.

[<sup>1</sup>] Section 25 of Act 10 of 1886 is repealed in the Sonthal Parganas by the Prisoners Act, 1900 (3 of 1900), which extends to the Sonthal Parganas.

[<sup>2</sup>] Acts 18 of 1886 and 20 of 1889 are repealed by the Indian Lunacy Act, 1912 (4 of 1912), which extends to the Sonthal Parganas.

[<sup>3</sup>] Act 12 of 1887 (the Bengal, Agra and Assam Civil Courts Act, 1887) is in force in the Sonthal Parganas for certain purposes - see the Sonthal Parganas Justice Regulation 1893 (5 of 1893), ss. 5 to 11.

[<sup>4</sup>] Act 20 of 1887 is repealed by the Wild Birds and Animals Protection Act, 1912 (8 of 1912), which extends to the Sonthal Parganas.

[<sup>5</sup>] The reference to Act 5 of 1888 (Inventions and Designs), which was repealed by the Amending Act, 1903 (1 of 1903), is omitted.

[<sup>6</sup>] Act 7 of 1888 is repealed by the Indian Registration Act, 1908 (16 of 1908), which has been declared in force in the Sonthal Parganas.

[<sup>7</sup>] Acts 6 and 7 of 1889 (except s. 13) and 2 of 1890 are repealed by the Indian Succession Act, 1925 (39 of 1925), which has been declared in force in the Sonthal Parganas.

[<sup>8</sup>] Act 5 of 1890 is repealed by the Indian Forest Act, 1927 (16 of 1927), which has been declared in force in the Sonthal Parganas.

## (The Schedule.)

ENACTMENTS IN FORCE IN THE SONTHAL PARGANAS—*contd.*

1	2	3	4
Year.	Number.	Short title or subject.	Whole or part.
<i>Part II.—Acts of the Governor General of India in Council—contd.</i>			
1890	VIII	The Guardians and Wards Act, 1890.	The whole.
"	IX	The Indian Railways Act, 1890 ..	Ditto.
"	X	The Press and Registration of Books Act (1867) Amendment Act, 1890.	Ditto.
"	XI	The Prevention of Cruelty to Animals Act, 1890.	Ditto.
"	XIII	The Excise (Malt Liquors) Act, 1890.	Sections 1, 6, 7 and 8.[ <sup>1</sup> ]
"	XVI	The Births, Deaths and Marriages Registration Act (1886) Amendment Act, 1890.	The whole.
"	[ <sup>2</sup> ]XVIII	The Indian Emigration Act (1883) Amendment Act, 1890.	Ditto.
1891	I	The Cattle-trespass Act (1871) Amendment Act, 1891.	The whole, except sections 10, 11 and 13.
"	II	The Indian Christian Marriage Act (1872) Amendment Act, 1891.	The whole.
"	III	The Indian Evidence Act (1872) Amendment Act, 1891.	Ditto.
"	X	The Indian Criminal Law Amendment Act, 1891.	Ditto.
"	XII	The Repealing and Amending Act, 1891.	Ditto.
"	XVIII	The Bankers' Books Evidence Act, 1891.	Ditto.
1892	II	The Marriages Validation Act, 1892.	Ditto.
"	IV	The Court of Wards Act (Bengal) Amendment Act, 1892.	Ditto.

[<sup>1</sup>] Sections 6, 7 and 8 of Act 13 of 1890 are repealed by the Bengal Excise Act, 1909 (Ben. Act 5 of 1909), which has been declared in force in the Sonthal Parganas. For later Acts in force in the Sonthal Parganas, see Vol. IV of this Code.

[<sup>2</sup>] Act 18 of 1890 is repealed by the Indian Emigration Act, 1908 (17 of 1908), which has been declared in force in the Sonthal Parganas. For later Acts in force in the Sonthal Parganas, see Vol. IV of this Code.

## (The Schedule.)

## ENACTMENTS IN FORCE IN THE SONTHAL PARGANAS—contd.

1	2	3	4
Year.	Number.	Short title or subject.	Whole or part.
<i>Part II.—Acts of the Governor General of India in Council contd</i>			
1892	V	The Bengal Military Police Act, 1892.	The whole.
"	[1]VI	<i>The Indian Limitation Act and Civil Procedure Code Amendment Act, 1892.</i>	<i>Ditto.</i>
"	X	The Government Management of Private Estates Act, 1892.	Ditto.
1893	I	The Bankers' Books Evidence Act, 1893.	Ditto.
[2]	*	* * *	*
1894	I	The Land Acquisition Act, 1894..	The whole.
"	III	The Indian Criminal Law Amendment Act, 1894.	Ditto.
[2]	*	* * *	*
1894	VIII	The Indian Tariff Act, 1894 ..	The whole.
"	IX	The Prisons Act, 1894 ..	Ditto.
1895	III	The Indian Criminal Law Amendment Act, 1895.	Ditto.
"	VIII	The Police Act (1861) Amendment Act, 1895.	Ditto.
1896	[3]I	<i>The Indian Emigration Act (1883) Amendment Act, 1896.</i>	<i>Ditto.</i>
"	[4]III	<i>The Indian Tariff Act (1894) Amendment Act, 1896.</i>	<i>Ditto.</i>
"	[5]V	<i>The Foreign Jurisdiction and Extradition Act (1879) Amendment Act, 1896.</i>	<i>Ditto.</i>

[1] Act 6 of 1892 (The Indian Limitation Act and Civil Procedure Code Amendment Act, 1892) has ceased to be in force in the Sonthal Parganas. See notification no. 1170-J.D., dated the 14th June, 1909, published in the Calcutta Gazette, 1909, Part I, p. 849.

[2] The references to Acts 7 of 1893 (Inland Emigration) and 7 of 1891 (Prisoners), which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[3] Act I of 1896 is repealed by the Indian Emigration Act, 1908 (17 of 1908), which has been declared in force in the Sonthal Parganas. For later Acts in force in the Sonthal Parganas, see Vol. IV of this Code.

[4] Act 3 of 1896 was repealed by the Indian Tariff (Amendment) Act, 1916 (4 of 1916), which has been declared in force in the Sonthal Parganas.

[5] Act 5 of 1896 is repealed by the Indian Extradition Act, 1903 (16 of 1903), which extends to the Sonthal Parganas.

## (The Schedule.)

ENACTMENTS IN FORCE IN THE SONTHAL PARGANAS—*contd.*

1	2	3	4
Year.	Number.	Short title or subject	Whole or part.
<i>Part II.—Acts of the Governor General of India in Council—contd</i>			
1896	VI	The Indian Penal Code Amendment Act, 1896	The whole.
"	IX	The Indian Railways Act (1890) Amendment Act, 1896	Ditto.
"	[ <sup>1</sup> ]X	<i>The Indian Volunteers Act Amendment Act, 1896</i>	<i>Ditto</i>
1897	III	The Epidemic Diseases Act, 1897	Ditto.
"	VIII	The Reformatory Schools Act, 1897.	Ditto.
"	X	The General Clauses Act, 1897 ..	Ditto.
1898	III	The Lepers Act, 1898 ..	Ditto
"	IV	The Indian Penal Code Amendment Act, 1898.	Ditto.
"	[ <sup>2</sup> ]V	The Code of Criminal Procedure, 1898.	Ditto.
"	VI	The Indian Post Office Act, 1898	Ditto.
"	IX	The Live-stock Importation Act, 1898.	Ditto.
1899	II	The Indian Stamp Act, 1899 .	Ditto.
"	IV	The Government Buildings Act, 1899.	Ditto.
"	V	The Indian Evidence Act, 1899 ..	Ditto.
"	VIII	The Indian Petroleum Act, 1899..	So much as relates to dangerous petroleum and the importation of petroleum.
"	X	The Carriers Act, 1899 ..	The whole.
"	XI	The Court-fees Amendment Act, 1899.	Ditto.
"	XII	The Currency Notes Forgery Act, 1899.	Ditto.

[<sup>1</sup>] Act 10 of 1896 is repealed by the Auxiliary Force Act, 1920 (49 of 1920), which extends to the Sonthal Parganas.

[<sup>2</sup>] As to the application of Act 5 of 1898, see also the Sonthal Parganas Justice Regulation, 1898 (5 of 1898), s. 4, as amended by Reg. 3 of 1899, s. 2, *post*, p. 740.

## (The Schedule.)

ENACTMENTS IN FORCE IN THE SONTHAL PARGANAS—*contd.*

1	2	3	4
Year.	Number.	Short title or subject.	Whole or part.

*Part II.—Acts of the Governor General of India in Council—concl.*

1899	[ <sup>1</sup> ]XIII	The Glanders and Farcy Act, 1899	The whole.
"	XIV	The Indian Tariff Amendment Act, 1899.	Ditto.
[ <sup>2</sup> ]	[ <sup>2</sup> ]		

*Part III.—Acts of the Lieutenant-Governor of Bengal in Council.*

1862	III	Sales of land for Arrears of Revenue (amending Act XI of 1859).	The whole.
"	VII	Resumption of Revenue-free Lands.	Ditto.
[ <sup>3</sup> ]	*	* * *	* *
1864	IV	Alteration of Limits of Districts (amending Act XXI of 1836).	The whole.
"	VII	Salt .. ..	Ditto.
1865	IV	Inoculation .. ..	Ditto.
"	VIII	Sale of Under-tenures ..	Ditto.
1866	III	Witnesses before Legislative Council.	Ditto.
1867	II	Gambling .. ..	Ditto.
1868	IV	Assessment of New Lands (amending Act LX of 1847).	Ditto.
"	VII	Recovery of Arrears of Land Revenue.	Ditto.
1869	VII	Police .. ..	Ditto.
1871	II	Sales of Land for Arrears of Revenue (amending Bengal Act VII of 1868).	Ditto.

[<sup>1</sup>] As to the application of Act 13 of 1899 to all districts in Bengal, see Notification No. 116, dated the 8th January, 1910, in Calcutta Gazette, 1910, Pt. I, p. 42.

[<sup>2</sup>] For a list of later Acts of the Governor-General in Council in force in the Sonthal Parganas—see Vol. IV of this Code.

[<sup>3</sup>] The entry relating to Bengal Act 8 of 1862 (Zamindari Daks), repealed by the Repealing and Amending (Rates, Cesses) Act, 1907 (4 of 1907), is omitted.

## (The Schedule.)

ENACTMENTS IN FORCE IN THE SONTHAL PARGANAS—*contd.*

1	2	3	4
Year.	Number.	Short title or subject.	Whole or part.
<i>Part III.—Acts of the Lieutenant-Governor of Bengal in Council—contd.</i>			
1871	[ <sup>1</sup> ]IV	<i>The Puri Lodging-house Act, 1871.</i>	<i>The whole.</i>
1873	IV	Registration of Births and Deaths	Ditto.
[ <sup>2</sup> ]	[ <sup>2</sup> ]		
1876	VII	<i>The Land Registration Act, 1876</i>	Ditto.
1878	V	Land Registration (amending Bengal Act VII of 1876).	Ditto.
„	[ <sup>3</sup> ]VII	<i>The Bengal Excise Act, 1878</i> ..	<i>Ditto.</i>
1879	[ <sup>1</sup> ]II	<i>Lodging-houses</i> .. ..	<i>Ditto.</i>
„	[ <sup>4</sup> ]III	<i>Steam-boilers</i> .. ..	<i>Ditto.</i>
„	IX	<i>The Court of Wards Act, 1879</i> ..	Ditto.
1880	VI	<i>The Bengal Drainage Act, 1880</i>	Ditto.
[ <sup>5</sup> ]	[ <sup>5</sup> ]		
1881	III	Court of Wards (amending Bengal Act IX of 1879).	Ditto.
„	[ <sup>6</sup> ]IV	<i>The Bengal Excise Act Amendment Act, 1881.</i>	Ditto.
[ <sup>6</sup> ]	[ <sup>6</sup> ]		
1883	[ <sup>7</sup> ]I	<i>Excise (amending Bengal Act VII of 1878).</i>	Ditto.
1884	[ <sup>1</sup> ]I	<i>Puri Lodging-houses (amending Bengal Act IV of 1871).</i>	Ditto.
„	[ <sup>7</sup> ]III	<i>The Bengal Municipal Act, 1884</i>	Ditto.

[<sup>1</sup>] Ben. Acts 4 of 1871, 2 of 1879 and 1 of 1884 are repealed by the Bihar and Orissa Places of Pilgrimage Act, 1920 (B. & O. Act 2 of 1920), which extends to the Sonthal Parganas.

[<sup>2</sup>] Ben. Act 5 of 1875 (the Bengal Survey Act, 1875) is in force in the Sonthal Parganas—see Notification No. 1982-T.R., dated the 10th September, 1904, in Calcutta Gazette, 1904, Pt. I, p. 1281.

[<sup>3</sup>] Ben. Acts 7 of 1878, 4 of 1881 and 1 of 1883 are repealed by the Bengal Excise Act, 1909 (Ben. Act 5 of 1909), which has been declared in force in the Sonthal Parganas, Ben. Act V of 1909 is repealed by the Bihar and Orissa Excise Act, 1915 (B. & O. Act II of 1915), which extends to the Sonthal Parganas.

[<sup>4</sup>] Ben. Act 3 of 1879 is repealed by the Indian Boilers Act, 1923 (5 of 1923), which extends to the Sonthal Parganas.

[<sup>5</sup>] Ben. Act 9 of 1880 (the Cess Act, 1880) is in force in the Sonthal Parganas—see Notification No. 480-R.P., dated the 25th October, 1905, in Calcutta Gazette, 1905, Pt. I, p. 1849.

[<sup>6</sup>] Ben. Act 2 of 1882 (the Bengal Embankment Act, 1882) is in force in the Sonthal Parganas—see Notification No. 1123-R., dated 14th June, 1909, in Calcutta Gazette, 1909, Pt. I, p. 839.

[<sup>7</sup>] Ben. Act 3 of 1884 has been repealed by the Bihar and Orissa Municipal Act, 1922 (B. and O. Act 7 of 1922), which extends to the Sonthal Parganas.

ENACTMENTS IN FORCE IN THE SOUTHERN PARGANAS—*contd.*

1	2	3	4
Year.	Number.	Short title or subject.	Whole or part.
<i>Part III.—Acts of the Lieutenant-Governor of Bengal in Council</i>			
1885	I	The Bengal Ferries Act, 1885 ..	The whole.
1886	[ <sup>1</sup> ]III	<i>Municipalities (amending Bengal Act III of 1884).</i>	<i>Ditto.</i>
[ <sup>2</sup> ]*	*	* * *	*
[ <sup>3</sup> ]	[ <sup>3</sup> ]		
1894	[ <sup>1</sup> ]IV	<i>Municipalities (amending Bengal Act III of 1884).</i>	<i>The whole.</i>
[ <sup>4</sup> ]*	*	* * *	*
1895	[ <sup>5</sup> ]I	<i>The Public Demands Recovery Act, 1895.</i>	<i>The whole.</i>
[ <sup>4</sup> ]*	*	* * *	*
1896	[ <sup>1</sup> ]II	<i>Municipalities (amending Bengal Act III of 1884).</i>	<i>The whole.</i>
1897	V	The Estates Partition Act, 1897..	<i>Ditto.</i>
1899	[ <sup>6</sup> ]I	<i>The Bengal General Clauses Act, 1899.</i>	<i>Ditto.</i>
[ <sup>7</sup> ]	[ <sup>7</sup> ]		
<i>Part IV.—Regulations made under the Government of India Act, 1870</i>			
1872	III	The Sonthal Parganas Settlement Regulation.	The whole.
1886	II	The Sonthal Parganas Rent Regulation, 1886.	<i>Ditto.</i>
[ <sup>8</sup> ]*	*	* * *	*
1893	V	The Sonthal Parganas Justice Regulation, 1893.	The whole.
[ <sup>9</sup> ]	[ <sup>9</sup> ]		

[1] Ben. Acts 8 of 1888, 4 of 1904 and 2 of 1906 (Municipalities), have been repealed by the Bihar and Orissa Municipal Act, 1922, (B. and O. Act 7 of 1922), which extends to the Sonthal Parganas.

[\*] The reference to Ben. Act 1 of 1889 (Inland Emigration) which was repealed by the Amending Act, 1903 (1 of 1903), is omitted.

[<sup>5</sup>] Ben. Act 2 of 1889 (the Private Fisheries Protection Act, 1889) is in force in the Sonthal Parganas—see Notification No. 1586-L.R., dated the 17th March, 1908, in Calcutta Gazette, 1908, Pt. I, p. 694.

[4] The references to Ben. Act. 6 of 1894 (Municipalities) and 5 of 1895 (Lepers) which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[5] Ben. Act 1 of 1895 is repealed by the Bihar and Orissa Public Demands Recovery Act, 1914 (B. & O. Act 4 of 1914), which has been declared in force in the Sonthal Parganas.

[<sup>6</sup>] Ben. Act 1 of 1899 is repealed by the Bihar and Orissa General Clauses Act, 1917 (B. & O. Act. 1 of 1917), which has been declared in force in the Sonthal Parganas.

[<sup>1</sup>] For a list of later Acts of the Lieutenant-Governor of Bengal in Council in force in the Sonthal Parganas, see Vol. IV of this Code.

[<sup>2</sup>] The reference to Regulation 3 of 1886 (Sonthal Parganas Laws), which was repealed by the Amending Act, 1903 (1 of 1903), is omitted.

[\*] For a list of later Regulations in force in the Sonthal Parganas, see Vol. IV of this Code.



## REGULATION 2 OF 1886.

(THE SONTHAL PARGANAS RENT REGULATION, 1886.)

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REGULATION 2 OF 1886 [1]

(THE SONTHAL PARGANAS RENT REGULATION, 1886)

(11th August, 1886.)

A REGULATION FOR THE DETERMINATION OF RENTS IN THE SONTHAL  
PARGANAS.

\* \* \* \* \* [2]

3 of 1872 Whereas it is expedient to provide that rents within the Sonthal Parganas shall not be changed except by the Settlement-officer in the course of settlement-proceedings under the Sonthal Parganas Settlement Regulation[3] or by the Deputy Commissioner in accordance with the procedure prescribed in this Regulation,

3 of 1872. And whereas it is also expedient to amend the Sonthal Parganas Settlement Regulation[3] in manner hereinafter appearing;

It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. (1) This Regulation may be called the Sonthal Parganas Rent Short title. Regulation, 1886.

(2) [Commencement.] Rep by the Amending Act, 1903 (1 of 1903).

3 of 1872. (3) It shall be read with, and be taken as supplementary to, the Construction. Sonthal Parganas Settlement Regulation [3]

2. In this Regulation, unless there is something repugnant in the Definitions. subject or context,—

(1) " Commissioner " means the Commissioner of the Bhagalpur Division; and

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[1] LOCAL EXTENT.—This Regulation extends only to the Sonthal Parganas, as described in the Schedule printed at the end of the Sonthal Parganas Act, 1855 (37 of 1855), *ante*,—see section 1 (3) of the Regulation. The Regulation is formally included in the Schedule of laws in force in these Parganas,—see *ante*, p. 724.

REPRINT.—This Regulation is reprinted in the Sonthal Parganas Manual, 1911, (Ed. 1925), pp. 55 to 66.

RULES.—For rules made under section 30, see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part V.

[2] The portion of the preamble which was repealed by the Amending Act, 1903 (1 of 1903), is omitted.

[3] Printed *ante*, p. 700.

(Secs. 3-6.)

(2) "Deputy Commissioner" means the Deputy Commissioner of the Sonthal Parganas, and includes any person invested by the Lieutenant-Governor with the powers of a Deputy Commissioner for all or any of the purposes of this Regulation.

## CHAPTER II.

## RENT.

*Rule of general application throughout the Sonthal Parganas.*

Mode of  
changing  
rents.

3. Notwithstanding any agreement to the contrary, the rent of a headman or of a *raiya* shall not be changed, except by the Settlement-officer in the course of settlement-proceedings under the Sonthal Parganas Settlement Regulation,<sup>[1]</sup> or by the Deputy Commissioner in 3 of 1872, accordance with the procedure prescribed in this Regulation.

*Adjustment of Rents under the Settlement Regulation.*

Power to  
order settle-  
ment exer-  
ciseable  
from  
time to  
time  
under  
Regulation  
3 of 1872.

4. In section 9 of the Sonthal Parganas Settlement Regulation,<sup>[1]</sup> 3 of 1872, after the words "The Lieutenant-Governor may" the words "from time to time" shall be inserted.

5. [Repeal of section 19 of Regulation 3 of 1872.] Rep. by the Amending Act, 1903 (1 of 1903).

Term for  
which rent  
adjusted un-  
der Regula-  
tion 3 of  
1872  
remains  
fixed.

6. Notwithstanding any agreement to the contrary, rents of headmen and *raiya*s, adjusted and recorded by the Settlement-officer in the course of a settlement under the Sonthal Parganas Settlement Regulation,<sup>[1]</sup> shall remain unchanged— 3 of 1872

- (a) in the case of a settlement made before this Regulation comes into force, for seven years from the time of the adjustment and record, or for such longer period (if any) as may have been specified in the record of the settlement in this behalf;
- (b) in the case of a settlement made after this Regulation comes into force, for fifteen years from the time of the adjustment and record;
- (c) in the case of a settlement made either before or after this Regulation comes into force, until within the period mentioned in clause (a) or clause (b), as the case may be, of this section the rents are changed in the course of a fresh settlement.

[1] Printed ante, p. 700.

(Secs. 7-13.)

*Determination of Rents under this Regulation in Settled Tracts.*

7. Subject to the provisions of sections 6 and 18—
  - (a) the *zamindar* or other proprietor of a village which has been settled under the Sonthal Parganas Settlement Regulation,<sup>[1]</sup> or
  - (b) the *mánjhi* or other headman of any such village, or
  - (c) any number, not being less than one-half, of the cultivating *rai-yats* of any such village,may, if dissatisfied with the rents payable in the village, apply to the Deputy Commissioner to prepare a table-of-rates of rent for the village and to determine the rents on the basis thereof.
8. Every application under section 7 shall set forth precisely the grounds upon which the existing rents are sought to be changed. Power to apply for preparation of table-of-rates of rent.
9. If the Deputy Commissioner considers that any application under section 7 is not admissible under that section, or is of opinion, on a consideration of the grounds set forth in the application or after such further inquiry as he deems necessary, that the rents ought not to be changed, he shall reject the application. Contents of application.
10. If the Deputy Commissioner finds that the application is admissible under section 7, and is of opinion, on a consideration of the grounds set forth in the application, or after such further inquiry as he deems necessary, that the rents ought to be changed, he shall submit the application with his recommendations for the orders of the Commissioner. Power for Deputy Commissioner to reject application.
11. The Commissioner may in his discretion either reject the application or direct the Deputy Commissioner to prepare for his approval a table-of-rates of rent for the village and a rent-roll based thereon. Submission of application by Deputy Commissioner to Commissioner.
12. In preparing the table-of-rates the Deputy Commissioner shall, subject to such rules, if any, as the Lieutenant-Governor may from time to time prescribe, ascertain and record such rates for the different classes of land as seem to him, due regard being had to existing rents, to be fair and equitable. Power for Commissioner to direct preparation of table-of-rates and rent roll.
13. (1) In preparing the rent-roll on the basis of the table-of-rates the Deputy Commissioner shall have regard to such circumstances as, in adjusting rents under the Sonthal Parganas Settlement Regulation,<sup>[1]</sup> the Settlement-officer would have regard to. Preparation of table-of-rates.

[1] Printed ante, p. 700.

(Secs. 14-19.)

(2) When the Deputy Commissioner has prepared the rent-roll, he shall determine the rent payable by the village-headman and specify that rent also in the rent-roll.

Preliminary  
publication  
of table and  
roll.

14. When the table-of-rates and rent-roll have been approved by the Commissioner, the Deputy Commissioner shall cause them to be locally published in such manner as the Lieutenant-Governor may from time to time prescribe.

Disposal of  
objections to  
table or roll

15. (1) When the table-of-rates and rent-roll have been published under section 14, any person interested may present a petition in writing to the Deputy Commissioner specifying any objection which he may desire to make with respect to the table or roll or both.

(2) The Deputy Commissioner shall consider the objection and, after such inquiry as he may deem necessary, record an order with respect thereto, either dismissing the objection or proposing for the approval of the Commissioner such amendment of the table or roll or both as may seem to be proper.

Amendment  
of table or  
roll.

16. When an amendment of the table-of-rates or of the rent-roll or of both is approved by the Commissioner on a proposal under section 15, sub-section (2), or is ordered by the Deputy Commissioner of the Sonthal Parganas or by the Commissioner under section 26, or by the Lieutenant-Governor under section 27, the Deputy Commissioner shall cause the table or roll or both to be amended in conformity with the directions of the authority approving or ordering the amendment.

Final publi-  
cation of  
table and  
roll.

17. After the expiration of a year from the date of the preliminary publication under section 14, the table-of-rates and rent-roll, with such amendments, if any, as have been made therein under section 16, shall be locally published in such manner as the Lieutenant-Governor may from time to time prescribe.

Continuance  
of table  
and roll.

18. The rates and rents specified in a table and roll finally published under section 17 shall, subject to any order under section 26 or section 27, remain unchanged for a period of fifteen years from the date of the publication under that section, and thereafter until a new table-of-rates and rent-roll have been published under section 17, or, if before the expiration of the period of fifteen years or before a new table and roll have been published the rents are adjusted and recorded under the Sonthal Parganas Settlement Regulation,<sup>[1]</sup> then until the date of that <sup>3</sup> of 1872, adjustment and record.

Commence-  
ment of  
operation of  
roll.

19. The rents specified in a rent-roll published under section 17 shall, notwithstanding any agreement to the contrary, take effect from such date as the Deputy Commissioner may appoint.

(Secs. 19A-19C.)

3 of 1872.

[<sup>1</sup>]19A. Notwithstanding anything contained in section 6 or section 18, the *zamindar* or other proprietor of a village may at any time apply to the Deputy Commissioner for the enhancement of the rent of the village or of any holding situate therein, on the ground that since such rent was adjusted and recorded by the Settlement-officer under the Sonthal Parganas Settlement Regulation, [<sup>2</sup>] or since a table-of-rates and rent-roll were published under section 17 the productive powers of the land in such village or holding have been increased by an improvement effected by, or at the expense of, the *zamindar* or other proprietor :

Application for enhancement of rent of village on ground of proprietor's improvement.

Provided that in case of villages which are in the lease or management of a *mánjhi* or headman, the *zamindar* or other proprietor has obtained the consent of the Deputy Commissioner prior to effecting the improvement, and that the improvement is of so substantial a nature as beneficially to effect a considerable proportion of the lands in the village.

*Explanation.*—The provision of security against failure of crops from drought or inundation shall be deemed to be equivalent to an increase in the productive powers of the land for the purposes of this section.

[<sup>1</sup>]19B. (1) If after enquiry the Deputy Commissioner finds that the productive powers of the land have actually been so increased in a permanent manner, the Deputy Commissioner may, by order in writing, enhance the rent which has been declared by the Settlement-officer to be payable, or which is entered in the rent-roll, as the case may be :

Procedure on such application and order of enhancement.

Provided that, where the Deputy Commissioner considers that the immediate enforcement of the full enhancement adjudged is likely to be attended with hardship, he may direct that the enhancement shall be gradual; that is to say, that the rent shall increase yearly by degrees, for any number of years not exceeding five, until the limit of the full enhancement adjudged has been reached.

(2) Where the Deputy Commissioner enhances rent under the provisions of sub-section (1), he shall, in his order, declare the date from which such enhancement shall take effect.

[<sup>1</sup>]19C. In determining the amount of enhancement the Deputy Commissioner shall have regard to—

Rules determining amount of enhancement.

- (a) the increase in the productive powers of the land caused by the improvement;
- (b) the cost of the improvement;
- (c) the existing rent and the ability of the land to bear a higher rent; and

[1] Sections 19A to 19F were added by the Sonthal Parganas Rent (Amendment) Regulation, 1907 (3 of 1907), s. 2, *post*, p. 751.

[2] Printed *ante*.

(Secs. 19D-20.)

(d) the expense which the *raiyat* has to incur in order to be able to utilize the improvement.

Disposal of applications under section 19A during settlement proceedings.

[<sup>1</sup>]19D. Any application under section 19A, for the enhancement of the rent of a village or of any holding situate therein, which is made to or pending before the Deputy Commissioner while a settlement is being made of such village under the Sonthal Parganas Settlement Regulation, [<sup>2</sup>] shall be transferred by him to the Settlement-officer for disposal. 3 of 1872.

Duration of enhancement.

[<sup>1</sup>]19E. Where rent has been enhanced under section 19B, on the ground of an improvement, no further enhancement shall be granted in respect of the same improvement until there is a re-settlement of the village under the Sonthal Parganas Settlement Regulation, [<sup>2</sup>] or until 3 of 1872. a fresh table-of-rates and rent-roll are published under section 17 :

Provided that any person by whom such rent is payable may at any time apply to the Deputy Commissioner to have the enhancement reduced or annulled on the ground that the improvement has not produced, or has ceased to produce, the estimated effect.

Saving where *raiyat* contributes towards cost of improvement.

[<sup>1</sup>]19F. Where a *raiyat*, having entered into an agreement with the *zamindar* or other proprietor of a village to contribute towards the cost of an improvement the share thereof which is fairly debitable to his holding, has paid the amount of such share to the *zamindar* or other proprietor, the rent of his holding shall not be enhanced under the provisions of section 19B in respect of the said improvement.

#### *Determination of Rent under this Regulation in Unsettled Tracts.*

Application of sections 7 to 19 to unsettled lands.

20. (1) An application may at any time be made to the Deputy Commissioner for the preparation of a table-of-rates, and of a rent-roll based thereon, for lands which have not been settled under the Sonthal Parganas Settlement Regulation.[<sup>2</sup>] 3 of 1872.

(2) In the case of an application under sub-section (1) the rules prescribed in sections 7 to 19 shall be subject to the following modifications, namely :—

- (a) any less number than one-half of the *raiya*s may make the application ;
- (b) if the Deputy Commissioner is of opinion that the rents ought to be changed, he may prepare and publish the table-of-rates and rent-roll on his own authority and without reference to the Commissioner ;

[1] Sections 19A to 19F were added by the Sonthal Parganas Rent (Amendment) Regulation, 1907 (3 of 1907), s. 2, *post*, p. 751.

[2] Printed *ante*.



(Secs. 21-23.)

- (c) the Deputy Commissioner may, on consideration of an objection, amend the table or roll or both on his own authority and without reference to the Commissioner; and
- (d) the table and roll, with such amendments, if any, as may have been made therein, may be finally published after the expiration of one month from the date of the preliminary publication.

*Supplemental Provisions.*

**21.** In the preparation of tables-of-rates and rent-rolls under this Regulation the Deputy Commissioner may employ any Deputy Collector, Assistant Collector or Sub-Deputy Collector.

Employment of subordinate officers to prepare tables-of-rates and rent rolls.

**22.** (1) The costs of all proceedings connected with an application under section 7 or section 20 of this Regulation, including the pay of all establishments employed under the orders of the Deputy Commissioner, and such proportion of the salary of any gazetted officer employed as the Commissioner may direct, shall be recoverable as a public demand \*

Cost of proceedings.

\* \* \* [1].

(2) Such costs shall ordinarily be recoverable from the person making the application, but the Deputy Commissioner may in any case—

- (a) direct that the costs shall be distributed among, and be recoverable from, all or any of the parties interested in the preparation of the table-of-rates and rent-roll, in such manner as may seem to him equitable, and
- (b) require the deposit, by any person interested, of such proportion of the costs of the proceedings as may seem to him equitable, and suspend the proceedings pending the making of the deposit.

(3) When the Deputy Commissioner directs that any costs shall be recoverable from *raiya*s under this section, he may further direct that they shall be recoverable through the headman, and may fix a date after which they shall be recoverable from the headman personally if they have not before that date been paid to the Deputy Commissioner or as the Deputy Commissioner directs.

2 of 1872.

**23.** When any waste or forest, which has been excluded from a village under section 15 of the Sonthal Parganas Settlement Regulation, [2] is

Application by Settlement-officer

[1] The words and figures "under Bengal Act 7 of 1880", which were repealed by the Amending Act, 1903 (1 of 1903), are omitted. See now the Bihar and Orissa Public Demands Recovery Act, 1914 (B. and O. Act 4 of 1914), ss. 4 and 5, in Vol. III of this Code.

[2] Printed *ante*, p. 700.

## (Sec. 24.)

of table-of-rates to waste included by him in a village.

subsequently settled, the Settlement-officer may, if he thinks fit, direct its inclusion within any village and declare that the table-of-rates (if any) for the time being in force under this Regulation for that village shall be applicable thereto.

*New Tenancies.*

Regulation of rents of new tenancies.

24. (1) When, after rents have been recorded under the Sonthal Parganas Settlement Regulation,[<sup>1</sup>] or a rent-roll has been prepared 3 of 1872. under section 13 of this Regulation, for a village in which a settlement has been made under the former Regulation, a tenancy comes into existence in the village which, if it had been in existence in the village when the record or the rent-roll was prepared would have been included therein, the rent payable in respect of the tenancy shall be regulated as follows :—

(i) if the tenancy is of reclaimed waste or forest—

(a) the rent for the first seven years after the reclamation shall not exceed half the rent which the Settlement-officer has admitted as fair and equitable in the case of land of similar quality in the village, or, as the case may be, which is payable for such land under the table-of-rates on which the Deputy Commissioner based the rent-roll of the village, and

(b) the rent after the first seven years shall not exceed the full rent computed as aforesaid;

(ii) if the tenancy is of an abandoned, surrendered or forfeited holding, the rent shall not exceed the rent which the Settlement-officer has or would have fixed for the holding, or, as the case may be, which is payable under the table-of-rates for such land as is comprised in the holding.

(2) Rent payable under this section may be changed on the final publication of a new rent-roll of the village under this Regulation or on an adjustment and record of rents under the Sonthal Parganas Settlement 3 of 1872. Regulation.[<sup>1</sup>]

(3) If any dispute arises as to the rent payable in respect of a tenancy under this section, it shall, on application for that purpose by either of the disputing parties to the Deputy Commissioner, be determined by him.

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[1] Printed ante, p. 700.

(Secs. 25-27.)

*Protection of Raiyats from Ejectment.*

25. A *raiyyat*, whether recorded as possessing a right of occupancy or not, shall not be ejected from his holding otherwise than in execution of an order of the Deputy Commissioner.

Exemption of *raiyyats* from liability to ejectment except by order of Deputy Commissioner.

*Acquisition of land for buildings and other purposes*

[1]25A. (1) The *zamindar* or other proprietor of a village, who is desirous of acquiring the holding or part of the holding of any *raiyyat* in such village, or any land over which the inhabitants of such village have any common right, for any reasonable purpose having relation to the good of the holding, village or estate, or for the erection of buildings or for any religious, educational or charitable purpose, may apply to the Deputy Commissioner for authority to acquire the same.

Acquisition of land by proprietor of village for buildings and other purposes.

(2) On being satisfied that the purpose stated in the application made under sub-section (1) is reasonable and sufficient, and that the objections, if any, taken to the application are such that they may fairly be disregarded, the Deputy Commissioner may authorize the applicant to take possession of the land on such terms and on payment to the *raiyyat* or other person interested (if any) of such compensation as he thinks fair and reasonable.

*Appeal and Revision.*

26. An appeal from an order of the Deputy Commissioner under section 9, 15, 20, 22, 24, or 25, or from an order of the Settlement-officer under section 23, shall, if presented within three months from the date of the order appealed against, lie—

Appeal.

(a) when the officer making the order is a person invested by the Lieutenant-Governor with the powers of a Deputy Commissioner for all or any of the purposes of this Regulation—to the Deputy Commissioner of the Sonthal Parganas;

(b) when the Deputy Commissioner making the order is the Deputy Commissioner of the Sonthal Parganas, or the order is made by a Settlement-officer—to the Commissioner.

27. All proceedings of the Deputy Commissioner, Settlement-officer or Commissioner under this Regulation shall be subject to control, revision and alteration by the Lieutenant-Governor.

Revision.

[1] The new heading and s. 25 (A) were added by the Sonthal Parganas Rent (Amendment) Regulation, 1907 (3 of 1907), s. 2, *post*, p. 751.

(Secs. 28-31.)

# CHAPTER III.

## MISCELLANEOUS.

Amendment  
of section  
25 of Regu-  
lation 3 of  
1872.

**28.** For the second sentence of the first clause of section 25 of the 3 of 1872. Sonthal Parganas Settlement Regulation.<sup>[1]</sup> the following sentence shall be substituted :—

*[Section 25 of the Sonthal Parganas Settlement Regulation, 3 of 1872, as amended by this Regulation has been replaced by the present section 25, printed ante, p. 708, by s. 9 of the Sonthal Parganas Settlement (Amendment) Regulation, 3 of 1908, printed post, p. 752.]*

Power of  
Lieutenant-  
Governor to  
order  
amendment  
of record-  
of-rights  
when table-  
of-rates and  
rent-roll  
are pre-  
pared.

**29.** Whenever a table-of-rates and rent-roll are prepared for a village under this Regulation, the Lieutenant-Governor may, by special order, empower the officer making the table-of-rates and rent-roll to amend the whole or any part of the record-of-rights of the village.

Power to  
make rules.

**30.** (1) The Lieutenant-Governor may, from time to time, make rules consistent with this Regulation for the guidance of officers in all matters connected with its enforcement.

(2) All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.

Power to  
exclude land  
from opera-  
tion of  
provisions  
regarding  
determina-  
tion and  
adjustment  
of rent.

**31.** The Lieutenant-Governor may, from time to time, by notification in the local official Gazette, exclude any land from the operation of this Regulation and of such portions of the Sonthal Parganas Settlement Regulation<sup>[1]</sup> as relate to the adjustment and record of 3 of 1872. rents.

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[1] Printed ante, p. 700.

REGULATION 5 OF 1898.  
(THE SONTHAL PARGANAS JUSTICE REGULATION, 1898.)

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## REGULATION 5 OF 1893.[<sup>1</sup>]

(THE SONTHAL PARGANAS JUSTICE REGULATION, 1893.)

(29th March, 1893.)

### A Regulation to make further provision for the Administration of criminal and civil justice in the Sonthal Parganas.

Whereas it is expedient to make further provision for the administration of criminal and civil justice in the Sonthal Parganas; It is hereby enacted as follows:—

#### CHAPTER I.

##### PRELIMINARY.

1. (1) This Regulation may be called the Sonthal Parganas Justice Regulation, 1893. Title, extent  
and com-  
mencement.

(2) It extends to the whole of the Sonthal Parganas as described in the Schedule[<sup>2</sup>] to Act 10 of 1857 and in the Notification[<sup>3</sup>] of the Governor General in Council, no. 478, dated the 12th March, 1872; and

(3) It shall come into force on such day[<sup>3</sup>], within three months from the time at which it may receive the Governor General's assent, as the Local Government may, by notification in the official Gazette, appoint in this behalf.

2. [Repeal of (1) sections 4 and 5 and portion of section 3 of Act 37 of 1855; (2) section 4 of Regulation 3 of 1872, and (3) rule 42 of the Civil Procedure rules of August, 1873.] *Rep. by the 'Amending' Act, 1903 (1 of 1903).*

3. In this Regulation—

(1) " Commissioner " means the Commissioner of the Bhagalpur Definitions Division; and

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[1] LOCAL EXTENT.—This Regulation extends only to the Sonthal Parganas, as described in the Schedule printed at the end of the Sonthal Parganas Act, 1855 (37 of 1855), *ante*,—see s. 1 (2) of the Regulation. The Regulation is formally included in the Schedule of Laws in force in those Parganas—see *ante*, p. 724.

Reprints.—The Regulation is reprinted in the Sonthal Parganas Manual, 1911 (Ed. 1925).

[2] The Schedule is printed *ante*, p. 330, and the Notification is published in the Gazette of India, 1872, Part I, p. 240. The descriptions in the Schedule and the Notification are identical.

[3] The 10th June, 1893—see Calcutta Gazette, 1893, Part II, p. 506.

(Sec. 4.)

(2) "Deputy Commissioner" means the Deputy Commissioner of the Sonthal Parganas.

## CHAPTER II.

## CRIMINAL JUSTICE.

Application  
of the Code  
of Criminal  
Procedure,  
1898.

[<sup>1</sup>]4. The Code of Criminal Procedure, 1898, shall have effect in 5 of 1898 the Sonthal Parganas, subject to the following modifications, namely :—

High Court.

I.—"High Court" shall mean,—

(i) in reference to proceedings against European British subjects or persons jointly charged with European British subjects, the High Court of Judicature at Fort William in Bengal; and

(ii) in reference to proceedings against other persons,—

(a) in cases tried by the Court of Session and in appeals under section 417 from original or appellate orders of acquittal, the High Court of Judicature at Fort William in Bengal; and

(b) in other cases, the Commissioner.

Court of  
Session.

[<sup>2</sup>]II.—The Sonthal Parganas shall be a sessions division, the Court of Session and the Sessions Judge for that division shall be such Court of Session and Sessions Judge as the Local Government may from time to time appoint by notification in the official Gazette, and the Court so appointed shall sit within the Sonthal Parganas.

Appeals  
from subor-  
dinate  
Magistrates.  
Appeal  
from  
Deputy  
Commis-  
sioner.  
Certain  
powers not  
to be  
exercised by  
Court of  
Session.

III.—Any person convicted, or sentenced under section 349, by any Magistrate other than the Deputy Commissioner, may appeal to the Deputy Commissioner.

IV.—Any person convicted, or sentenced under section 349, by the Deputy Commissioner, may appeal to the Commissioner as High Court.

V.—The Court of Session shall not exercise any of the powers conferred by sections 435, 436, 437 and 438.

[1] This section was substituted for the original s. 4 by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 2, *post*, p. 748.

[2] This was substituted for the original by the Sonthal Parganas Justice (Amendment) Regulation, 1912 (4 of 1912), s. 2, *post*, p. 763.



(Secs. 5-6.)

VI.—When an appeal has been preferred, the Appellate Court may enhance any punishment which has been awarded by the Lower Court :

Power of Appellate Court to enhance sentence.

Provided that, if the appeal is from the sentence of a Magistrate other than the Deputy Commissioner, the Appellate Court shall not inflict a greater punishment than might have been inflicted by a Magistrate of the first class.

VII.—Notwithstanding anything in the Code, a finding, sentence or order shall not be reversed or altered, on appeal or in revision, on account of any irregularity of procedure, unless the irregularity has occasioned, or is likely to occasion, a failure of justice.

Findings, etc., not to be reversed for irregularities of procedure.

VIII.—Rules under section 554, sub-section (2), clause (c), may regulate the following among other matters, namely :—

Rules.

(a) the fees to be paid for processes ; and

(b) the fees to be paid for copies and the inspection of records.

### CHAPTER III.

#### CIVIL JUSTICE.

5. Besides the Courts of Settlement-officers there shall be two classes of Civil Courts in the Sonthal Parganas, namely :—

Classes of Courts in the Sonthal Parganas.

(1) Courts established under the Bengal,<sup>[1]</sup> [Agra] and Assam Civil Courts Act, 1887 ;<sup>[2]</sup> and

12 of 1887.

(2) Courts of officers appointed by the Lieutenant-Governor of Bengal under section 2 of Act 37 of 1855.<sup>[3]</sup>

6. The rest of this Chapter is divided into two parts, as follows :—

Division of remainder of Chapter into Parts.

PART I.—*Courts established under the Bengal, [1] [Agra] and Assam Civil Courts Act, 1887.*<sup>[2]</sup>

12 of 1887.

PART II.—*Courts of officers appointed under section 2 of Act 37 of 1855.*<sup>[3]</sup>

[1] The word "Agra" has been substituted for the words "North-Western Provinces" in the Bengal, Agra and Assam Civil Courts (Amendment) Act, 1911 (14 of 1911), s. 2 *ante*, p. 648.

[2] Printed *ante*, p. 514.

[3] The Sonthal Parganas Act, 1855, is printed *ante*, p. 328.

(Secs. 7-11.)

## PART I.

*Courts established under the Bengal,<sup>[1]</sup> [Agra] and Assam Civil Courts Act, 1887.*

Grades of  
Courts es-  
tablished  
under Act  
12, 1887.

7. The Courts established under the Bengal, <sup>[1]</sup> [Agra] and Assam Civil Courts Act, 1887,<sup>[2]</sup> shall in the Sonthal Parganas be of two 12 of 1887. grades, namely :—

(1) the Court of the District Judge; and

(2) the Courts of Subordinate Judges.

Appoint-  
ment of  
District  
Judge and  
Subordinate  
Judges.

8. The Deputy Commissioner shall be the District Judge, and the Local Government may appoint any Sub-divisional Officer to be a Subordinate Judge.

Extent of  
original  
jurisdiction  
of District  
Judge and  
Subordinate  
Judges.

9. The jurisdiction of the District Judge or a Subordinate Judge extends, subject to the provisions of section 15 of the Code of Civil 14 of 1882. Procedure,<sup>[3]</sup> to suits of which the value exceeds one thousand rupees and which are not excluded from his cognizance by the Sonthal Parganas Settlement Regulation <sup>[4]</sup> or by any other law for the time being in 3 of 1872. force :

Provided that such jurisdiction shall not extend to any suit for money in which the amount claimed, exclusive of interest, does not exceed five hundred rupees.

Procedure  
in original  
suits, and  
appeals  
from  
decrees  
and orders  
therein.

10. The trial of such suit shall be regulated by the Code of Civil 14 of 1882. Procedure <sup>[3]</sup> as for the time being in force in the Bhagalpur District, and the course of appeal from decrees and orders in such suits shall, where an appeal is allowed by law, be that prescribed in section 20, sub-section (1), and section 21, sub-section (1), of the Bengal,<sup>[1]</sup> [Agra] and 12 of 1887. Assam Civil Courts Act, 1887,<sup>[2]</sup> and in section 584 of the Code of Civil 14 of 1882. Procedure,<sup>[3]</sup> the expression " High Court " in the said sections being construed to mean the High Court of Judicature at Fort William in Bengal.

Limitation  
of the  
application  
of Act 12,  
1887.

11. Nothing in sections 3 to 9 (both inclusive), 12, 18, 19, 22 to 25 (both inclusive), 27 to 36 (both inclusive) and 40 of the Bengal,<sup>[1]</sup> 12 of 1887. [Agra] and Assam Civil Courts Act, 1887,<sup>[2]</sup> shall apply to a Court established under that Act in the Sonthal Parganas.

[1] The word "Agra" has been substituted for the words "North-Western Provinces" by the Bengal, Agra and Assam Civil Courts (Amendment) Act, 1911 (16 of 1911), s. 2, *ante*, p. 643.

[2] Printed *ante*, p. 514.

[3] Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908), and this reference should now be taken to be made to the latter Code.

[4] Printed *ante*, p. 700.

(Secs. 12-15)

PART II.

*Courts of Officers appointed under section 2 of Act 37 of 1855.*<sup>[1]</sup>

12. The Courts of officers appointed by the Lieutenant-Governor of Bengal under section 2 of Act 37 of 1855<sup>[1]</sup> shall be of four grades, namely.—

Grades of  
Courts of  
officers ap-  
pointed  
under  
Act 37,  
1855, s. 2.

- (1) the Court of the Commissioner;
- (2) the Court of the Deputy Commissioner,
- (3) the Courts of Sub-divisional Officers; and
- (4) the Courts of Deputy Collectors not in charge of a sub-division, and Sub-Deputy Collectors.

13. The Local Government may fix and vary the number of Courts of Sub-Divisional Officers and of Deputy Collectors not in charge of a sub-division and Sub-Deputy Collectors, and the local limits <sup>[2]</sup> of the jurisdiction of those Courts

Determi-  
nation of  
number  
and local  
jurisdiction  
of inferior  
Courts.

14. Except as otherwise provided by any other enactment for the time being in force, jurisdiction with respect to suits which are not cognizable either by a Court established in the Sonthal Parganas under the Bengal,<sup>[3]</sup> [Agra] and Assam Civil Courts Act, 1887,<sup>[4]</sup> or by a Settlement-officer under the Sonthal Parganas Settlement Regulation<sup>[5]</sup> shall be had,—

Original  
jurisdiction  
of Courts.

- (a) up to the value of one hundred rupees or such other value not exceeding five hundred rupees as the Local Government may, by notification<sup>[6]</sup> in the official Gazette, prescribe, by the Court of a Deputy Collector not in charge of a sub-division, or Sub-Deputy Collector; and
- (b) without limit as regards the value, by the Court of a Sub-divisional Officer or the Court of the Deputy Commissioner.

15. (1) Subject to the provisions of the first proviso to section 2 of Act 37 of 1855<sup>[1]</sup> and of section 10 of this Regulation with respect to

Court of  
Commis-  
sioner to be  
High Court.

[1] The Sonthal Parganas Act, 1855. It is printed *ante*, p. 328.

[2] For an order under s. 13, see the Sonthal Parganas Manual, 1911 (Ed. 1925).

[3] The word "Agra" was substituted for the words "North-Western Provinces" by the Bengal, Agra and Assam Civil Courts (Amendment) Act, 1911 (16 of 1911), s. 2, *ante*, p. 643.

[4] Printed *ante*, p. 514.

[5] Printed *ante*, p. 700.

[6] See Notification No. 4156-J, dated the 29th August 1893, in the Sonthal Parganas Manual, 1911 (Ed. 1925).

(Secs. 16-17.)

and Court of Deputy Commissioner to be District Court. the jurisdiction of the High Court of Judicature at Fort William in Bengal in relation to suits cognizable by Courts established under the Bengal,<sup>[1]</sup> [Agra] and Assam Civil Courts Act, 1887,<sup>[2]</sup> and subject also to the provisions of sub-section (3), and of any other enactment for the time being in force, the Court of the Commissioner shall, for the purposes of all enactments relating to civil jurisdiction for the time being in force, be deemed to be the High Court for the Sonthal Parganas. 12 of 1897.

(2) Subject to the provisions of the same proviso with respect to the trial and determination of suits of value exceeding one thousand rupees which are within the cognizance of a Court established in the Sonthal Parganas under the Bengal,<sup>[1]</sup> [Agra] and Assam Civil Courts Act, 1887,<sup>[2]</sup> and subject also to the provisions of sub-section (3) and of any rules and orders for the time being in force under section 10 of the Sonthal Parganas Settlement Regulation,<sup>[3]</sup> the Court of the Deputy Commissioner shall, for the same purposes, be deemed to be the principal Civil Court of original jurisdiction and the District Court for the Sonthal Parganas : 3 of 1872.

Provided that the Lieutenant-Governor may, by notification in the official Gazette, direct that the Court of a Sub-divisional officer shall, for the purposes of any enactment specified in the notification, be deemed to be the District Court for the local area within its jurisdiction.

(3) For the purposes of the Indian Divorce Act<sup>[4]</sup> the Commissioner shall be deemed to be the District Judge, and the High Court of Judicature at Fort William in Bengal to be the High Court. 4 of 1869.

Control over Courts.

**16.** (1) The general superintendence and control over Civil Courts of all other grades shall be vested in, and all such Courts shall be subordinate to, the Court of the Commissioner.

(2) Subject to the general superintendence and control of the Court of the Commissioner, the Deputy Commissioner shall control all Civil Courts of the third and fourth grades.

Appeals from original decrees or orders.

**17.** (1) Subject to the provisions of this Part of this Chapter with respect to revision, a decree or order made in an original suit of value not exceeding fifty rupees by a Sub-Divisional Officer, or in an original suit of value not exceeding one hundred rupees by the Deputy Commissioner, shall, if no question of title to immoveable property or to office

[1] The word "Agra" was substituted for the words "North-Western Provinces" by the Bengal, Agra and Assam Civil Courts (Amendment) Act, 1911 (16 of 1911), s. 2, *ante*, p. 643.

[2] Printed *ante*, p. 643.

[3] Printed *ante*, p. 700.

[4] Printed in the General Acts, 1834-72, Ed. 1928, p. 254.

(Secs. 18-21.)

connected with such property was directly or indirectly in issue in the suit, be final.

(2) From every other decree or order in an original suit an appeal shall lie, when the decree or order was made—

(a) by a Deputy Collector not in charge of a sub-division or by a Sub-Deputy Collector, to the Sub-Divisional Officer: provided that the Deputy Commissioner shall have power to order any such appeal to be transferred to his own file;

(b) by a Sub-Divisional Officer, to the Deputy Commissioner;

(c) by the Deputy Commissioner, to the Commissioner.

18. Subject to the provisions of this Part of this Chapter with respect to revision, an appellate order or decree shall be final in all cases where the decision of the Lower Court is affirmed, and no second appeal shall be allowed except when the Sub-Divisional Officer or Deputy Commissioner has varied the decision of the Lower Court. In this case an appeal will lie to the Commissioner. Second appeals.

The appellate order or decree upon a second appeal shall in all cases be final.

19. (1) The Commissioner or Deputy Commissioner may, of his own motion or otherwise, call for the record of any case decided by a Court under his control in which an appeal does not lie or in which, for cause shown to his satisfaction, an appeal has not been preferred within the time limited therefor, and may pass such order in the case as he thinks fit. Revision.

(2) The Deputy Commissioner may, by order in writing, empower any Sub-Divisional Officer under his control to exercise the powers conferred on the Deputy Commissioner by sub-section (1) with respect to the decisions of all or any of the Courts of Deputy Collectors not in charge of a sub-division, or Sub-Deputy Collectors, under the control of the Deputy Commissioner.

20. The Deputy Commissioner may, by order in writing, direct that any civil business cognizable by him and the Courts under his control shall be distributed among those Courts in such manner as he thinks fit: Power for Deputy Commissioner to distribute business.

Provided that no direction under this section shall empower any Court to exercise any powers or deal with any business beyond the limits of its proper jurisdiction.

21. The Commissioner or Deputy Commissioner may withdraw any suit or other proceeding pending in any Court under his control and try it himself or refer it for disposal to any other Court under his control and competent to try it. Power for Commissioner and Deputy Commissioner to transfer proceedings.

(Secs. 22-25.)

Review.

**22.** (1) The Commissioner may, for sufficient reason, review any decree or order which has been passed by himself and from which an appeal has not been preferred to Her Majesty in Council.

(2) A Court subordinate to that of the Commissioner shall not review any decree or order made by it, except for the purpose of correcting a clerical error or other error manifestly the result of an oversight, without previously obtaining,—

(a) in the case of the Court of a Deputy Collector not in charge of a sub-division, or Sub-Deputy Collector, or of a Sub-Divisional Officer, the permission of the Deputy Commissioner, and

(b) in the case of the Court of the Deputy Commissioner, the permission of the Commissioner.

Decrees and orders not reversible on technical grounds alone.

**23.** A decree or order made by the Court of an Officer appointed by the Lieutenant-Governor of Bengal under section 2 of Act 37 of 1855<sup>[1]</sup> shall not be reversed or altered on appeal or revision on account of any irregularity of procedure, unless the irregularity has occasioned or is likely to occasion a failure of justice.

#### CHAPTER IV.

##### SUPPLEMENTAL PROVISIONS.

Addition to s. 6, Reg. 3, 1872.

**24.** To section 6 of the Sonthal Parganas Settlement Regulation the 8 of 1872, following shall be added, namely :—

[Printed *ante*, p. 713.]

Pending Proceedings.

**25.** All cases and proceedings, whether original or on appeal, review, reference or revision, pending in the Court of the Commissioner of the Bhagalpur Division, or of the Deputy Commissioner or any subordinate officer of the Sonthal Parganas, shall be disposed of as if this Regulation had not been passed; and no decree or order which may be made or passed in any such pending case in pursuance of any jurisdiction intended or purporting to be conferred by, or by the authority of, the Lieutenant-Governor of Bengal under Act 37 of 1855,<sup>[1]</sup> or any other enactment for the time being in force, shall be deemed invalid or be deprived of any of its effect by reason of the objection that such jurisdiction was not or could not have been lawfully conferred.

[1] The Sonthal Parganas Act, 1855, *ante*, p. 328.

(Secs. 26-27.)

**26.** Appeals and applications for revisions from decrees, orders and decisions passed by the Deputy Commissioner or any subordinate officer of the Sonthal Parganas, and not appealed against before the date on which this Regulation comes into force, shall be and be disposed of as if passed by Courts exercising similar jurisdictions under this Regulation

Pending  
appeals.

**27.** Any directions which the Lieutenant-Governor of Bengal may issue under section 1, clause 2, of Act 37 of 1855,[<sup>1</sup>] must be consistent with this Regulation and with all other enactments for the time being in force in the Sonthal Parganas.

Limitation  
of the scope  
of directions  
under Act  
37, 1855,  
section 1,  
clause 2

---

[1] The Sonthal Parganas Act 1855, *ante*, p. 328

(Secs. 22-25.)

Review.

**22.** (1) The Commissioner may, for sufficient reason, review any decree or order which has been passed by himself and from which an appeal has not been preferred to Her Majesty in Council.

(2) A Court subordinate to that of the Commissioner shall not review any decree or order made by it, except for the purpose of correcting a clerical error or other error manifestly the result of an oversight, without previously obtaining,—

(a) in the case of the Court of a Deputy Collector not in charge of a sub-division, or Sub-Deputy Collector, or of a Sub-Divisional Officer, the permission of the Deputy Commissioner, and

(b) in the case of the Court of the Deputy Commissioner, the permission of the Commissioner.

Decrees and orders not reversible on technical grounds alone.

**23.** A decree or order made by the Court of an Officer appointed by the Lieutenant-Governor of Bengal under section 2 of Act 37 of 1855<sup>[1]</sup> shall not be reversed or altered on appeal or revision on account of any irregularity of procedure, unless the irregularity has occasioned or is likely to occasion a failure of justice.

## CHAPTER IV.

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[1] The Sonthal Parganas Act, 1855, *ante*, p. 328.



(Secs. 26-27.)

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Limitation  
of the scope  
of directions  
under Act  
37, 1855,  
section 1,  
clause 2

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[1] *The Sonthal Parganas Act, 1855, ante, p. 328*

## REGULATION 3 OF 1899.

(THE SONTHAL PARGANAS JUSTICE AND LAWS REGULATION, 1899.)<sup>[1]</sup>

(23rd August, 1899.)

### A Regulation to amend the Sonthal Parganas Justice Regulation, 1893, and the Sonthal Parganas Settlement Regulation, as amended by the Sonthal Parganas Laws Regulation, 1886.

Whereas it is expedient to amend the Sonthal Parganas Justice Regulation, 1893<sup>[2]</sup> and the Sonthal Parganas Settlement Regulation,<sup>[3]</sup> as amended by the Sonthal Parganas Laws Regulation, 1886,<sup>[4]</sup> It is hereby enacted as follows:—

Short title.      1. (1) This Regulation may be called the Sonthal Parganas Justice and Laws Regulation, 1899.

(2) [*Commencement.*] *Rep. by the Amending Act 1903 (1 of 1903).*

Substitution of new section for section 4, Regulation 5, 1893.      2. For section 4 of the Sonthal Parganas Justice Regulation, 1893, 5 of 1893. the following shall be substituted, namely:—  
4. [Printed *ante*, p. 740.]

Substitution of new section and Schedule for section 3 and schedule, Regulation 3, 1872.      3. For section 3 of the Sonthal Parganas Settlement Regulation, 3 of 1872. as amended by the Sonthal Parganas Laws Regulation, 1886,<sup>[4]</sup> with 3 of 1886. the schedule annexed thereto, the following, with the schedule annexed to this Regulation, shall be substituted, namely:—  
3. [Printed *ante*, p. 700.]

## THE SCHEDULE.

[Printed *ante*, p. 711.]

[1] LOCAL EXTENT. —This Regulation extends only to the Sonthal Parganas, as described in the Schedule printed at the end of the Sonthal Parganas Act, 1855 (37 of 1855), *ante*, p. 330.

[2] Printed *ante*, p. 739.

[3] Printed *ante*, p. 700.

[4] Reg. 3 of 1886 was repealed by the Amending Act, 1903 (1 of 1903), *ante*, p. 616.

## REGULATION 2 OF 1904.<sup>[1]</sup>

(THE SONTHAL PARGANAS SETTLEMENT REGULATION, 1904.).

(24th August, 1904.)

**A Regulation to provide for the apportionment and recovery of expenses incurred by the Government in certain settlement proceedings taken under section 9 of the Sonthal Parganas Settlement Regulation.**

3 of 1872. Whereas under section 9<sup>[2]</sup> of the Sonthal Parganas Settlement Regulation, the Lieutenant-Governor of Bengal may declare that a settlement shall be made of the whole or any part of the Sonthal Parganas for the purpose of ascertaining and recording the various interests and rights in the land to be so brought under settlement, but no provision has been made for the recovery of expenses incurred by the Government in respect of such settlement, It is hereby enacted as follows.—

1. (1) This Regulation may be called the Sonthal Parganas Settlement Regulation, 1904; and

Short title  
and cons-  
truction.

(2) It shall be read with, and taken as part of, the Sonthal Parganas Settlement Regulation

3 of 1872. 2. When, under section 9<sup>[2]</sup> of the Sonthal Parganas Settlement Regulation, the Lieutenant-Governor declares that a settlement shall be made of the whole or any part of the Sonthal Parganas for the purpose of ascertaining and recording the various interests and rights in the land so to be brought under settlement, he may, save when a settlement of land-revenue is about to be made in respect of such land, order that the whole or any part of the expenses incurred by the Government in connection with such settlement, including the expenses of and incidental to any surveys that may have been necessary, as also the expenses that may be incurred from time to time in the maintenance of boundary and other survey marks erected for the purposes of such settlement, shall be borne by the owners, occupiers and village headmen of the land so brought under settlement, or by any one or more of them to the exclusion of the others or other of them, in such manner and in such shares or proportions as he may, having regard to all the circumstances of the case, deem just and equitable.

Apportion-  
ment of  
expenses.

[1] LOCAL EXTENT.—Since this Regulation is [see s 1 (2)] to be read with, and taken as part of, Reg 3 of 1872, its local extent is the same as that of the latter Regulation, as to which see foot-note, *ante*, p. 700.

[2] Printed *ante*, p. 703.

(Secs. 3-5.)

Provision  
in case of  
devolution  
or transfer  
of interest  
in land  
settled.

3. Where any such owner, occupier or village headman dies or transfers his interest in the land so brought under settlement, or any part thereof, before payment of the expenses ordered under section 2 to be borne by him, the Deputy Commissioner may recover the same from the representatives of the deceased person or from the transferor, as the case may be, or from the person in possession of the interest of the deceased person or transferor or of any part thereof, or from any of them, without prejudice to any agreement as to how or in what proportion such expenses are to be ultimately borne.

Mode of  
recovery.

4. Every sum of money due from any person under the provisions of this Regulation shall be recoverable from him as an arrear of land revenue.

Regulations  
to have re-  
trospective  
effect.

5. This Regulation shall be deemed to apply also in the case of any settlement under section 9<sup>[1]</sup> of the Sonthal Parganas Settlement 3 of 1872. Regulation, which, though begun, has not been completed before the commencement of this Regulation.

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[1] Printed *ante*, p. 703.

REGULATION No. 3 OF 1907.[<sup>1</sup>]

[THE SONTHAL PARGANAS RENT (AMENDMENT) REGULATION, 1907.]

(24th August, 1907.)

**A Regulation to amend the Sonthal Parganas Rent Regulation, 1886.**

2 of 1886. Whereas it is expedient to amend the Sonthal Parganas Rent Regulation, 1886, in manner hereinafter appearing; It is hereby enacted as follows:—

1. This Regulation may be called the Sonthal Parganas Rent Short title. (Amendment) Regulation, 1907.

2 of 1886. 2. After section 19 of the Sonthal Parganas Rent Regulation, 1886, the following shall be inserted, namely:—

19A to 19F. [Printed *ante*, pp. 731-732.]

2 of 1886. 3. After section 25 of the Sonthal Parganas Rent Regulation, 1886, the following shall be inserted, namely:—

25A. [Printed *ante* p. 735.]

Addition of new sections after section 19, Regulation 2, 1886.  
Addition of new heading and section after section 25, Regulation 2, 1886.

[1] LOCAL EXTENT.—The local extent of this Regulation is the same as that of Regulation 2 of 1886 for which—see footnote [1] on p. 727, *ante*.

REGULATION NO. 3 OF 1908<sup>[1]</sup>.

[THE SONTHAL PARGANAS SETTLEMENT (AMENDMENT) REGULATION,  
1908.]

(16th October, 1908.)

**A Regulation further to amend the Sonthal Parganas Settlement  
Regulation.**

Whereas it is expedient further to amend the Sonthal Parganas 3 of 1872.  
Settlement Regulation; It is hereby enacted as follows:--

Short title.      1. This Regulation may be called the Sonthal Parganas Settlement  
(Amendment) Regulation, 1908.

New sec-      2. For section 5 of the Sonthal Parganas Settlement Regulation  
tions 5 and the following shall be substituted, namely:—  
5A in Regu-  
lation 8,  
1872.                      5, 5A. [Printed *ante*, pp. 701-702.]

3. (*Partial repeal of section 8*), *Rep. by Act 12 of 1927.*

Amendment      4. In section 11 of the said Regulation, for the figures "25" the  
of section figures and letter "25A" shall be substituted.  
11.

Amendment      5. To section 13 of the said Regulation the following shall be  
of section added, namely:—  
13.

13. [Printed *ante*, p. 704.]

6. (*Repeal of section 23.*) *Rep. by Act 12 of 1927.*

Evidential      7. Every paper prepared under section 23 of the said Regulation  
value of and duly published before the commencement of this Regulation shall  
papers be deemed to form and always to have formed part of the record-of-  
prepared rights.  
under  
section 23.

Amendment      8. In section 24 of the said Regulation,—  
of section  
24.

(a) for the words "in the Original or Appellate Settlement  
Courts" the words "in the Settlement Courts, within a  
period of six months from the date of the publication of  
such record-of-rights" shall be substituted; and

(b) the words "before which such objection may be urged or  
brought on appeal or otherwise" shall be omitted.

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[<sup>1</sup>] LOCAL EXTENT.—The local extent of this Regulation is the same as that of Regu-  
lation 3 of 1872 for which—see footnote [<sup>1</sup>] on p. 700, *ante*.

**[Reg. 3 of 1908.] The Sonthal Parganas Settlement**  
**(Amendment) Regulation, 1908.**

753

(Secs. 9-10.)

**9.** For section 25 of the said Regulation as amended by the **New sec-**  
**2 of 1886.** Sonthal Parganas Rent Regulation, 1886, the following shall be **tions 25 and**  
substituted, namely :— **25A.**

25, 25A. [Printed *ante*, p. 708.]

**10.** For section 26 of the said Regulation the following shall be **New sec-**  
substituted, namely :— **tions 26 to**  
**28.**

26—28. [Printed *ante*, pp. 709-710.]

## REGULATION 4 OF 1910.

(THE SONTIAL PARGANAS RURAL POLICE REGULATION, 1910.)

### CONTENTS.

#### SECTION.

1. Short title and extent.
2. Power to vary local extent of Regulation.
3. Definitions.
4. Formation of villages and circles, and appointment of *sardars*.
5. Deputy *sardars*.
6. Number of *chaukidars* for each village.
7. Salaries and equipment of *sardars*, deputy *sardar*, and *chaukidars*.
8. Payments by *amindars* or under-tenure-holders.
9. Village-assessments.
10. List of payments.
11. Nature and amount of assessment.
12. Alteration of village-assessment, and preparation of revised list of monthly payments.
13. Revision and confirmation of assessment.
14. Assessment and customary payments realizable in instalments.
15. Collection of assessment and customary payments.
16. Payment of dues by persons whose duty it is to make collections.
17. List of defaulters and application for distraint.
18. Decision of objections to list of defaulters.
19. Distress-warrants.
20. Seizure of property and proclamation of sale.
21. Sale of property and application of proceeds.
22. No distraint after one year.
23. Delegation of Deputy Commissioner's powers.
24. District *Chaukidari* Reward Fund.
25. Power to make rules.
26. Repeal.

THE SCHEDULE—FORM OF DISTRESS-WARRANT.



REGULATION No. 4 OF 1910.[<sup>1</sup>]

(THE SONTHAL PARGANAS RURAL POLICE REGULATION, 1910.)

(20th June, 1910.)

**A Regulation to provide for the organization and maintenance of the Rural Police in the Sonthal Parganas.**

Whereas it is expedient to provide for the organization and maintenance of the rural police in the Sonthal Parganas, It is hereby enacted as follows :—

1. (1) This Regulation may be called the Sonthal Parganas Rural Police Regulation, 1910; and Short title  
and extent.

10 of 1857. (2) It extends to the whole of the Sonthal Parganas, as described in the Schedule to the Sonthal Parganas Act, 1857,<sup>[2]</sup> and in the Notification of the Governor-General in Council, no. 478, dated the 12th March 1872, published at page 240 of Part I of the Gazette of India of the 16th *idem*<sup>[2]</sup>.

2. The Local Government may, by notification in the Calcutta Gazette, withdraw this Regulation, or any part thereof, from any portion of the Sonthal Parganas, and may extend this Regulation, or any part thereof, to any portion of the Sonthal Parganas from which the same has been so withdrawn. Power to  
vary local  
extent of  
Regulation

3. In this Regulation, unless there is anything repugnant in the Definition subject or context,—

(a) “ Deputy Commissioner ” means the Commissioner of the Sonthal Parganas, and includes any officer appointed by the Local Government to perform the functions of the Deputy Commissioner under this Regulation;

(b) “ under-tenure ” includes also the tenures known as *mukarari*, *shikmi* and *khor-o-posh*; and

(c) “ *zamindar* ” means the person whose name is registered in the general register of estates paying revenue directly to the Government as the proprietor of an estate so paying

[1] LOCAL EXTENT.—This Regulation extends only to the Sonthal Parganas, as described in the Schedule printed at the end of the Sonthal Parganas Act, 1855 (37 of 1855), *ante*, p. 328; see s. 1(2) of the Regulation.

[2] The Schedule is printed *ante*, p. 375, and the Notification is published in the Gazette of India, 1872, Part I, p. 240. The descriptions in the Schedule and the Notification are identical.

(Secs. 4-7.)

revenue, or the person whose name is registered in the general register of revenue-free lands as the proprietor of a revenue-free tenure, and includes also the *ghatwals* of Tapah Sarath Deoghur, whose tenures are subject to the provisions of the Bengal Ghatwali Lands Regulation, 29 of 1814, 1814.[1]

Formation  
of villages  
and circles,  
and appoint-  
ment of  
*sardars*.

4. The Deputy Commissioner may, from time to time, by order in writing,—

- (a) declare any local area or group of houses to be a village for the purposes of this Regulation;
- (b) form any of such villages into circles; and
- (c) appoint a *sardar* for each circle :

Provided that, in the *Damin-i-Koh* and in the *ghatwalis* subject to the provisions of the Bengal Ghatwali Lands Regulation, 1811,[1] 29 of 1814 the circles shall be so formed as to admit of the duties of *sardar* being performed by *parganais*, *sardars* or *ghatwals*, as the case may be, according to existing arrangements.

Deputy  
*sardars*.

5. (1) The person or persons responsible for performing the duties of *sardar* in any circle may appoint a deputy *sardar* for any period :

Provided that the appointment of any deputy *sardar*, and the period for which he is appointed, shall be subject to the approval of the Deputy Commissioner.

(2) A deputy *sardar* may perform any of the duties of the *sardar* who appointed him, but shall have no claim on the villagers for remuneration unless he has a customary right to receive remuneration from them or unless the Deputy Commissioner directs that he be paid by them and not by the *sardar* who appointed him.

Number of  
*chaukidars*  
for each  
village.

6. The Deputy Commissioner shall determine the number of *chaukidars* to be employed in each village :

Provided that, without the previous sanction of the Commissioner, there shall not be more than one *chaukidar* for every sixty houses.

Salaries and  
equipment  
of *sardars*,  
deputy  
*sardars* and  
*chaukidars*.

7. The amount required for the salaries and equipment of the *sardars*, deputy *sardars* and *chaukidars* employed under this Regulation shall be determined by the Deputy Commissioner :

Provided as follows :—

- (a) the salary of a *sardar* shall not be less than eight rupees, nor more than twelve rupees, *per mensem*;

(Secs. 8-10.)

- (b) the salary of a deputy *sardar* shall not be less than six rupees, nor more than eight rupees, *per mensem*;
- (c) the salary of a *chaukidar* shall not be less than two rupees, nor more than six rupees, *per mensem*;
- (d) in determining the salaries of the *sardars*, deputy *sardars* and *chaukidars* employed as aforesaid, the Deputy Commissioner shall take into consideration the value of any *chakran* lands which may be held by them, or be provided for them by the *zamindars*, under-tenure-holders or villagers, and any customary payments made to them by the villagers in money, in produce or in kind.

8. (1) Where a *zamindar* or under-tenure-holder holds subject to the condition, expressed or implied, of supporting the police within his *zamindari* or under-tenure, he shall be liable to pay the amount determined by the Deputy Commissioner under section 7 :

Payments  
by *zamin-  
dars* or  
under-  
tenure-  
holders.

Provided that the Deputy Commissioner may, with the previous sanction of the Commissioner, in any case, after recording his reasons in writing, abstain from enforcing the said liability, or enforce the same only in part.

(2) The amount due under sub-section (1) from any *zamindar* or under-tenure-holder shall be paid in instalments to be fixed by the Deputy Commissioner; and, if any instalment is not paid on the due date, the Deputy Commissioner shall recover the same by the process prescribed for the recovery of arrears of Government revenue.

9. (1) In cases other than those referred to in section 8, and in cases in which the liability under that section is not enforced or is only partially enforced, the amount required for the salaries and equipment of the *sardars* or deputy *sardars* and *chaukidars* employed under this Regulation, together with a sum, not exceeding two annas in the rupee of that amount, to provide for payment of the costs of collection (including the remuneration of the person making the collection) and the keeping of accounts and for losses from the non-realization of sums from defaulters, shall be assessed on each village.

Village-  
assessment

(2) Every owner or occupier of a house or land in any village, and every *zamindar* or under-tenure-holder who has a *kachahri* for the collection of rent within the village, shall be liable to the said assessment.

10. (1) The total amount payable by each village shall be fixed by the Deputy Commissioner; and thereupon the headman or headmen of the village, or, in areas in which there are no headmen, such persons

List of  
paymen

(Secs. 11-12.)

as the Deputy Commissioner may appoint in this behalf, shall prepare a list showing—

- (a) the amount payable by each person liable to assessment in the village, and
- (b) such customary payments referred to in proviso (b) to section 7 as have not been discontinued by order of the Deputy Commissioner.

(2) If, within three months after the Deputy Commissioner has fixed the amount payable by any village, the said list has not been prepared, the Deputy Commissioner may adopt either or both of the following courses, namely,—

- (i) he may impose a daily fine of one rupee on the person whose duty it is to prepare the list, to be paid until the list is prepared;
- (ii) he may cause the list to be prepared by such other means as he thinks fit.

(3) Every list prepared under this section shall, with the sanction of the Deputy Commissioner, be published at some conspicuous place within the village to which it relates, and shall remain in force until altered with the sanction of the Deputy Commissioner.

Nature and amount of assessment.

**11.** The amount at which each person is assessed under section 10, clause (a), shall be fixed according to the circumstances and the property to be protected of that person :

Provided as follows—

- (a) the amount to be assessed on any one person shall not exceed one rupee *per mensem* in the case of a *zamindar*, under-tenure-holder or trader, or eight annas *per mensem* in the case of an ordinary *raiya*; and
- (b) every person who is, in the opinion of the Deputy Commissioner, too poor to pay half an anna *per mensem* shall be exempted from assessment.

Alteration of village-assessment, and preparation of revised list of monthly payments.

**12.** (1) The Deputy Commissioner may, from time to time, alter the amount assessed on any village.

(2) Before the month of October in the year immediately preceding that in which any alteration made under sub-section (1) is to take effect, the Deputy Commissioner shall give notice of the alteration to the person or persons whose duty it is to prepare the list prescribed by section 10;

(Secs. 18-19.)

and thereupon a revised list of the sums payable by each person shall be prepared in the manner prescribed by that section.

**13.** Any person who is dissatisfied with the amount at which he has been assessed may apply to the Deputy Commissioner, either orally or in writing, for a revision of the assessment; and the Deputy Commissioner may amend, remit or confirm the assessment.

Revision or confirmation of assessment.

**14.** Every amount assessed under this Regulation, and all customary payments referred to in section 10, clause (b), shall be realizable by such instalments and on such dates as may be fixed by the Deputy Commissioner.

Assessment and customary payments realizable in instalments.

**15.** (1) The headman or other person whose duty it is to prepare the list prescribed by section 10 shall collect the amount payable under section 14 by each of the persons named in the list, and shall grant receipts for the same.

Collection of assessment and customary payments.

(2) In any village in which two or more persons are charged with the duty of preparing the list prescribed by section 10, those persons, or, if they fail to make the appointment, the Deputy Commissioner, shall appoint one of their number to receive the collections from the others and keep the accounts of the collections.

**16.** The person whose duty it is to make the collections referred to in section 15 shall pay, through such officers and on such dates as the Deputy Commissioner may direct, the dues to meet which the making of such collections is authorized.

Payment of dues by persons whose duty it is to make collections.

**17.** As soon as may be after any payment has become due under section 14, the person whose duty it is to collect such payments shall prepare a list of the persons who have failed to pay the amounts due from them, and shall apply to the Deputy Commissioner for the attachment and sale of any moveable property belonging to the defaulters, at the same time publishing a copy of the list at some conspicuous place within the village to which it relates.

List of defaulters and application for distraint.

**18.** Where any person whose name has been included in a list of defaulters prepared under section 17 desires to dispute his liability to pay the amount mentioned therein, or any part thereof, he may, within fifteen days of the publication of the copy of the list within the village, apply to the Deputy Commissioner, either orally or in writing, stating the grounds of his objection; and the Deputy Commissioner shall examine his objection and pass such order thereon as he may think fit.

Decision of objections to list of defaulters.

**19.** (1) Whenever the Deputy Commissioner imposes a fine under section 10, sub-section (2), he may issue a warrant in the form set forth in the Schedule.

Distress-warrants.

(Secs. 20-24.)

(2) If any person whose duty it is to make the collections referred to in section 15, fails to pay any dues as directed under section 16, the Deputy Commissioner, if he is satisfied that such failure was due to the default of such person, may issue a warrant in the said form.

(3) Whenever the Deputy Commissioner receives a list of defaulters prepared under section 17, he shall, subject to any orders passed under section 18, issue a warrant in the said form.

(4) Every warrant issued under this section shall be signed by the Deputy Commissioner and shall authorize the person therein named in that behalf to recover, by distraint and sale of a sufficient portion of the moveable property of each of the defaulters, other than plough-cattle and tools and implements of trade or agriculture, the amount due from him, together with a sum equal to a proportionate share of the costs of distraint and sale.

Seizure of  
property  
and procla-  
mation of  
sale

**20.** (1) The person so authorized shall seize and keep in his own custody such portion of the moveable property of the defaulters as he may think sufficient, and shall make an inventory of all moveable property so seized, and shall, at the same time, make proclamation, by beat of drum, of the time and place where the property will be sold.

(2) The time of sale fixed under sub-section (1) shall be not less than five, nor more than ten, days from the date of the proclamation thereof.

Sale of pro-  
perty and  
application  
of proceeds

**21.** Where a defaulter does not, within the time so proclaimed, pay the amount due from him, together with his share of the costs of the distraint, the moveable property distrained or a sufficient portion thereof, shall be sold by public auction at the time and place so proclaimed, and the proceeds shall be applied in discharge of the said amount and costs, the surplus (if any) being returned to the owner of the distrained property.

No distraint  
after one  
year.

**22.** No amount payable under this Regulation shall be recovered by distraint and sale under the foregoing provisions after the expiration of one year from the date on which the same became due.

Delegation  
of Deputy  
Commis-  
sioner's  
powers.

**23.** The Deputy Commissioner may, from time to time, by order in writing, with the previous sanction of the Commissioner, delegate all or any of his powers under this Regulation to any Magistrate subordinate to him, or to the Superintendent of Police, and may in like manner withdraw any order so made.

District  
*Chaukidari*

**24.** All fines levied from *sardars* and *chaukidars* under this Regulation shall be credited to a fund, to be called the District *Chaukidari*

(Secs. 25-26. *The Schedule.*)

Reward Fund, the control over which shall rest with the Deputy Commissioner. Reward Fund.

**25.** (1) The Local Government may make rules to carry out the purposes and objects of this Regulation. Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

- (a) regulate the appointment of *sardars*, deputy *sardars* and *chaukidars*, and their punishment, whether by dismissal, suspension or fine;
- (b) determine the duties to be performed by *sardars*, deputy *sardars* and *chaukidars*;
- (c) determine and regulate the method and times for paying *sardars*, deputy *sardars* and *chaukidars* their salaries;
- (d) provide for the equipment of *sardars*, deputy *sardars* and *chaukidars*;
- (e) regulate the mode of assessing and collecting the amounts payable under this Regulation; and
- (f) regulate the payment of rewards out of the District *Chaukidari* Reward Fund.

**26.** (*Repeal.*) *Rep. by the Repealing Act, 1927, (12 of 1927).*

## THE SCHEDULE.

(*See section 19.*)

### FORM OF DISTRESS-WARRANT.

To

Whereas the several persons named in the following list have made default in payment of the sums in the said list set opposite to their respective names :

You are hereby authorized and required to recover, by distress and sale of a sufficient portion of the moveable property of the said

*The Schedule.*

defaulters, the said several sums set opposite to their respective name together with the additional sums by way of costs mentioned in the said list —

*List of Defaulters.*

Name and description.	Amount.	When due.	Costs	For
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*Deputy Commissioner.*



REGULATION No. 4 OF 1912.[<sup>1</sup>]

[THE SONTHAL PARGANAS JUSTICE (AMENDMENT) REGULATION, 1912.]

(27th March, 1912.)

**A Regulation further to amend the Sonthal Parganas Justice Regulation,  
1893.**

Whereas it is expedient further to amend the Sonthal Parganas  
of 1893. Justice Regulation, 1893; It is hereby enacted as follows :—

1. (1) This Regulation may be called the Sonthal Parganas Justice Short title  
(Amendment) Regulation, 1912. and com-  
mencement.

(2) It shall come into force on such date as the Local Government  
may, by notification [<sup>2</sup>] in the official Gazette, appoint in this behalf.

2. For clause II of section 4 of the Sonthal Parganas Justice Amendment  
of 1893. Regulation, 1893, the following shall be substituted, namely :— of section  
4, Regula-  
tion 5 of  
1893.

II. [Printed *ante*, p. 740.]

[1] LOCAL EXTENT.—The local extent of this Regulation is the same as that of Regu-  
lation 5 of 1893.

[2] This Regulation was brought into force on the 1st April, 1912; see the B. and O.  
Gazette, 1912, Part I, p. 19.

REGULATION No. 5 of 1913  
(THE ANGLO LAWS REGULATION, 1913)

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**THE SCHEDULE—ENACTMENTS DECLARED IN FORCE IN THE DISTRICT OF ANGUL  
OR PART THEREOF**

# REGULATION No. 3 OF 1913.<sup>[1]</sup>

(THE ANGUL LAWS REGULATION, 1913.)

(10th October, 1913.)

## A Regulation to provide for the peace and good government of the Angul District.

Whereas it is expedient to consolidate and amend the law providing for the peace and good government of the Angul District in the Orissa Division; It is hereby enacted as follows :—

### CHAPTER I.

#### PRELIMINARY.

1. (1) This Regulation may be called the Angul Laws Regulation, 1913; and Short title  
and com-  
mencement.

(2) It shall come into force on such day<sup>[2]</sup> as the Local Government may, by notification in the Bihar and Orissa Gazette, direct.

2. In this Regulation and in every enactment in force in the district, unless there is anything repugnant in the subject or context,— Definitions.

(a) “accountant” means any person charged with the duty of keeping the accounts of any demand due to the Government and accruing within the district;

<sup>[3]</sup>[(aa) “The Commissioner” means the Political Agent and Commissioner, Orissa Feudatory States.]

(b) “Deputy Collector and Deputy Magistrate” includes any Sub-Deputy Collector and Sub-Deputy Magistrate who is specially empowered by the Commissioner to discharge the functions of a Deputy Collector and Deputy Magistrate;

(c) “Deputy Commissioner” means the officer in chief executive charge of the district, by whatever other title he may be designated;

(d) “district” means the district comprising Angul and the area known as the Khondmals;

(e) “District Court” and “District Judge” means the Court of the Deputy Commissioner and the Deputy Commissioner, respectively;

(f) “High Court” means with reference to criminal proceedings against European British subjects or persons jointly

[1] LOCAL EXTENT.—This Regulation extends only to the district of Angul—*see preamble.*

[2] I.e., 1st January 1914, *see* Bihar and Orissa Gazette, 1913, Part II, p. 1213, notification No. 4431, dated 24th October, 1913.

[3] This clause was inserted by the Angul Laws (Amendment) Regulation, 1922, (6 of 1922), s. 2, *post*, p. 794.

(Secs. 3-5.)

charged with such subjects, the High Court of Judicature at Fort William in Bengal; and, in any other case, the Court of the Commissioner;

(g) "Sub-divisional Officer" means the Officer in charge of a subdivision of the district; and

(h) "Superintendent of Police" means the chief officer in charge of the Angul District Police, by whatever other title he may be designated.

## CHAPTER II.

### LAW APPLICABLE IN THE DISTRICT.

Enactments  
in force in  
the district.

[<sup>1</sup>]3. (1) So much of each of the enactments specified in the Schedule as is at the commencement of this Regulation in force in the territories to which the enactment generally applies shall, in the form in which it is for the time being so in force, be deemed to be in force in the district, or in such part thereof as is mentioned in the 3rd column of the said Schedule, subject to any modifications made by this Regulation.

(2) An enactment not comprised in the Schedule shall not be deemed to be in force in any part of the district, unless it is expressed by special mention of the district of Angul or any part of that district to extend thereto or is, after the commencement of this Regulation, declared in force therein or extended thereto in exercise of the powers conferred by section 5 of this Regulation or by any other enactment for the time being in force in the district.

*Explanation.*—Enactments not comprised in the Schedule, and not declared in force or extended as aforesaid, shall not be deemed to be in force in the district or any part thereof merely on the ground that they are referred to in some enactment which is so in force.

Power to  
exempt the  
district  
from  
operation of  
enactment.

4. Subject to the control of the Governor General in Council, the Local Government may, by notification in the Bihar and Orissa Gazette, declare that any enactment which is comprised in the Schedule shall no longer be in force in the district; and, on the publication of such notification, such enactment shall be repealed in the said district.

Power to  
declare  
other enact-  
ments  
to be in  
force.

5. Subject to the control of the Governor General in Council, the Local Government may, by notification in the Bihar and Orissa Gazette, declare that any enactment not comprised in the Schedule shall be in force in the district or any part thereof, and, on the publication of such notification, such enactment shall be deemed to be comprised in the Schedule.

[1] See further notification of the Government of India no. 4-11, dated the 3rd January 1921, Gazette of India (Extra.), 1921, p. 44, declaring the district of Angul to be a "backward tract" under sub-section (2) of section 52A of the Government of India Act.

*(Secs. 6-10.)*

6. For the purpose of facilitating the application of any enactment for the time being in force in the district, any Court may construe such enactment with such alterations, not affecting the substance thereof, as may be necessary or proper to adapt it to the matter before the Court. Power to construe enactments with necessary alterations.

7. Notwithstanding anything in this Regulation or in the enactments comprised in the Schedule, no finding, sentence, judgment, decree or order of any Court shall be reversed, set aside or modified on appeal, revision or otherwise, by reason of any irregularity in procedure, unless such irregularity has, in the opinion of the Court, caused a failure of justice. Proceedings when not vitiated for irregularities.

8. Any person liable to be imprisoned in any prison in the district or to be transported, under any order or sentence passed by any officer or Court duly empowered under this Regulation, may be confined in any prison in British India, or may be transported to any place which the Local Government may select. Execution, outside the district, of sentences passed therein.

### CHAPTER III.

#### CONSTITUTION AND JURISDICTION OF COURTS.

9. The district shall be divided, for Civil, Criminal and Revenue purposes, into the Sadar or Angul sub-division and the Khondmals sub-division. Sub-divisions of the district.

10. There shall be the following Courts in or for the district, and they shall be subject to the general superintendence and control of the Local Government :— Ordinary Courts.

(1) the Court of the Honorary Magistrate or Bench of Magistrates ;

(2) the Court of the Sub-Deputy Collector and Sub-Deputy Magistrate ;

(3) the Court of the Deputy Collector and Deputy Magistrate ;

(4) the Courts of the Sub-divisional Officers of Angul and of the Khondmals ;

(5) the Court of the Deputy Commissioner ; and

(6) the Court of the Commissioner.

(Secs. 11-14.)

Establish-  
ment of  
other Courts

**11.** The Local Government may establish any other Court and may invest it with such powers as it may prescribe to be exercised in the district.

Control over  
Courts.

**12.** (1) The immediate control and supervision of the Court of the Deputy Commissioner and of any other Court of equal or similar powers that may hereafter be established in accordance with the provisions of section 11 shall be vested in, and every such Court shall be subordinate to, the Court of the Commissioner.

(2) The immediate control and supervision of the Courts mentioned in clauses (1) to (4) of section 10, and of any other similar Court that may hereafter be established under section 11, shall be vested in, and all such Courts shall be subordinate to, the Court of the Deputy Commissioner.

Local juris-  
diction and  
powers of  
Courts and  
officers.

**13.** The Local Government may, by notification in the Bihar and Orissa Gazette, define the local limits of the jurisdiction and the powers of any Court constituted under this Regulation, or of any officer of the Government employed in the district.

Powers of  
Courts.

**14.** (1) The Courts mentioned in section 10 shall ordinarily have the powers specified in the following table :—

Name of Court.	Revenue powers.	Criminal powers.	Civil powers.
1	2	3	4
I.—The Court of the Honorary Magistrate or Bench of Magistrates.	....	The ordinary powers of a Magistrate of the third class, as defined in the Code of Criminal Procedure, 1898.	
5 of 1898			
II.—The Court of the Sub-Deputy Collector and Sub-Deputy Magistrate.	Powers corresponding to those of a Deputy Collector under any law for the time being in force in the district.	The ordinary powers of a Magistrate of the second class, as defined in the Code of Criminal Procedure, 1898.	
5 of 1898.			
III.—The Court of the Deputy Collector and Deputy Magistrate.	Ditto ..	Ditto ..	Powers corresponding to those of a Civil Court under the Code of Civil Procedure, 1908, to try 8 of 1908. original civil suits of which the value does not exceed one hundred rupees.



(Sec. 14.)

Name of Court.	Revenue powers.	Criminal powers.	Civil powers.
1	2	3	4
IV. The Court of the Sub-divisional Officers of Angul and of the Khondmals.	Powers corresponding to those of a Deputy Collector under any law for the time being in force in the district.	The ordinary powers of a Sub-divisional Magistrate of the first class, as defined in the Code of Criminal Procedure, 1898.	Powers corresponding to those of Civil Court, under the Code of Civil Procedure, 1908, to try original civil suits of which the value does not exceed five hundred rupees.  Powers of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887; the limit of powers in each case to be fixed by the Local Government.
V. The Court of the Deputy Commissioner.	Powers corresponding to those of a Collector under any law for the time being in force in the district.	The ordinary powers of a District Magistrate and of a Sessions Judge, under the Code of Criminal Procedure, 1898.	Powers corresponding to those of a District Judge, under the Code of Civil Procedure, 1908, to try original civil suits and appeals without limit as respects the value.
VI. The Court of the Commissioner.	Powers corresponding to those of a Commissioner and of the Board of Revenue under any law for the time being in force in the district.	The ordinary powers of a High Court, under the Code of Criminal Procedure, 1898, except in regard to criminal proceedings against European British subjects or persons jointly charged with European British subjects.	Powers corresponding to those of a High Court under the Code of Civil Procedure, 1908.

(2) The Local Government may, by notification in the Bihar and Orissa Gazette,—

- (a) confer upon any Court mentioned in column 1 of the foregoing table any further powers in addition to those specified in respect of such Court in that table, or
- (b) authorize the Board of Revenue to exercise supervision and control over any such Court in all or any matters relating to revenue.

(Secs. 15-21.)

## CHAPTER IV.

## ADMINISTRATION OF CRIMINAL JUSTICE.

Court of Session.

**15.** The district shall be a sessions division, the Court of the Deputy Commissioner shall be the Court of Session, and the Deputy Commissioner shall be the Judge of that Court.

Power of Court of Session to take cognizance of offences as a Court of original jurisdiction.

**16.** As Sessions Judge the Deputy Commissioner may take cognizance of any offence as a Court of original jurisdiction without the accused person being committed to him for trial by a Magistrate, and, when so taking cognizance of an offence, shall, subject to the provisions of this Regulation, follow the procedure prescribed by the Code of Criminal Procedure, 1898, for the trial of warrant cases by 5 of Magistrates.

Sessions trials without jury or assessors.

**17.** A trial before a Court of Session may be without a jury or the aid of assessors.

Officer in charge of a police-station.

**18.** (1) The police-officer of highest rank present at a police-station shall be deemed to be the officer in charge of such police-station

(2) Any police-officer may exercise the powers conferred, by section 55 of the Code of Criminal Procedure, 1898, on an officer in charge of a 5 of 1898. police-station.

Detention by police.

**19.** (1) Notwithstanding anything contained in section 57 or section 61 of the Code of Criminal Procedure, 1898, an officer in charge of 5 of a police-station may detain a person arrested without warrant for such time as in all the circumstances of the case is reasonable.

(2) When such officer of his own authority detains any such person in custody for a longer period than twenty-four hours, exclusive of the time necessary for the journey from the place of arrest to the nearest Magistrate's Court, he shall, in the report prescribed by section 62 of the Code of Criminal Procedure, 1898, state his reasons for prolonging 5 of the detention of such person, and, where the detention extends beyond three days, shall submit further reports of the reasons therefor at such intervals as the Magistrate to whom the report under section 62 was submitted may, by general or special order, direct.

Statement made to police-officer.

**20.** Nothing in the first paragraph of sub-section (1) of section 162 of the Code of Criminal Procedure, 1898, shall be construed to apply 5 of 1898. to a statement made to a police-officer who is also a Magistrate.

Prosecution for State offences or for false

**21.** Notwithstanding anything in any law for the time being in force, a prosecution for an offence against the State, or for the offence of giving false evidence in respect of a statement made by a person

(Secs. 22-28.)

who has accepted a tender of pardon, may be entertained upon evidence to  
complaint made by order of, or under authority from, the Deputy by person  
Commissioner. whom  
pardon has  
been ten-  
dered  
Tender of  
pardon.

**22.** Any Magistrate tendering a pardon to an accomplice under  
5 of 1898. section 337 of the Code of Criminal Procedure, 1898, may, notwith-  
standing anything contained in that section, try the case himself.

**23.** Notwithstanding anything contained in the Indian Limitation  
9 of 1908. Act, 1908, the period of limitation for an appeal from any sentence or of appeal  
order in any criminal case shall be thirty days from the date of such  
sentence or order

**24.** Notwithstanding anything contained in the Code of Criminal  
5 of 1898. Procedure, 1898, no appeal shall lie in any case in which the Deputy Restrictions  
Commissioner, exercising the powers of a District Magistrate or of a on appeal.  
Court of Session, passes a sentence of imprisonment for a term not  
exceeding three months, or of fine not exceeding one hundred rupees,  
or of whipping only.

**25.** Where an offence referred to in section 195 of the Code of Contempt  
5 of 1898. Criminal Procedure, 1898, is committed before the presiding officer of and offences  
a Criminal Court, or in contempt of his authority, or is brought to against  
his notice in the course of a judicial proceeding, he may himself try. public  
justice or  
relating to  
documents.  
for such offence the person accused thereof.

**26.** Notwithstanding anything contained in section 495 of the Conduct of  
5 of 1898. Code of Criminal Procedure, 1898, any Court may allow any police- prosecution.  
officer to conduct a prosecution.

**27.** Any Court may, for reasons stated in writing, refuse to exercise, Adjournment  
in the manner mentioned in sub-section (8) of section 526 of the Code on applica-  
5 of 1898. of Criminal Procedure, 1898, the power of postponement or adjourn- tion, for  
ment given by section 344 of that Code. transfer of  
case.

**28.** In the case of any proceeding the record of which has been Commis-  
5 of 1898. called for and examined by himself, or which has been reported for sioner's and  
orders under section 485 of the Code of Criminal Procedure, 1898, or Deputy  
which otherwise comes to his knowledge, the Deputy Commissioner Commis-  
or the Commissioner may, in his discretion, exercise any of the powers sioner's  
power of  
revision.  
conferred on a Court of appeal by sections 195, 423, 426, 427 and 428  
of that Code, and may, for sufficient reasons to be recorded, enhance  
the sentence :

Provided that—

- (1) no order under this section shall be made to the prejudice  
of the accused, unless he has had an opportunity of being  
heard in his defence;

(Secs. 29-31.)

(2) nothing in this section shall apply to an entry made under section 273 of that Code, or shall be deemed to authorize the conversion of a finding of acquittal into one of conviction.

Saving of provisions relating to European British subjects.

**29.** Nothing in this Chapter with respect to procedure in inquiries or trials, or with respect to sentences or appeals therefrom, or the period of limitation for such appeals or to the enhancement or execution of sentences, shall be construed to affect the Code of Criminal 5 of 1898 Procedure, 1898, or the Indian Limitation Act, 1908, in its application 7 of 1908 to European British subjects or to persons jointly charged with such subjects.

## CHAPTER V.

### ADMINISTRATION OF CIVIL JUSTICE.

Law to be administered.

**30.** (1) When in any civil proceeding it is necessary to decide any question regarding succession, inheritance, pre-emption, caste, special property of females, betrothal, marriage, adoption, guardianship, minority, bastardy, family relationship, wills, legacies, gifts, partitions, or any other religious or social usage or institution,

the Buddhist law, in cases where the parties are Buddhists, the Muhammadan law, in cases where the parties are Muhammadans, and the Hindu law, in cases where the parties are Hindus, shall form the rule of decision,

except in so far as such law has, by any enactment in force in the district, been amended or abolished, or is opposed to any custom having the force of law in the district.

(2) In cases not provided for by sub-section (1), or by any other law for the time being in force, the Court shall act according to justice, equity and good conscience.

Interest.

**31.** In any suit instituted after the commencement of this Regulation,—

(a) interest on any debt or liability for a period exceeding one year shall not be decreed at a higher rate than two *per cent per mensem*, notwithstanding any agreement to the contrary, and no compound interest arising from any adjustment of account which is not final, or from any claim by bond, decree or otherwise, which has been increased on renewal without the passing of fresh consideration, shall be decreed; and,

## (Secs. 32-37.)

(b) the total interest decreed on any loan or debt shall not exceed one-fourth of the principal sum, if the period be not more than one year, and shall not in any other case exceed the principal of the original loan or debt.

32. The Court may at any time, of its own motion, for reasons to be recorded in writing, refer any matter arising in any suit to the arbitration of any village *panchayat* which has been vested by the Deputy Commissioner with powers in this behalf.

Reference by Court to village panchayat.

33. Where any suit involves—

(a) the examination or adjustment of accounts, or

Reference by Court to arbitration.

(b) questions of pedigree or local caste or of local or family custom, or

(c) any other question of family law,

the Court may, of its own motion or on the application of any of the parties, and after recording its reasons in writing, refer to arbitration any matter of difference between the parties.

34. Notwithstanding anything contained in Schedule II of the Code of Civil Procedure, 1908,—

Bar to arbitration in certain cases, and limitation of awards.

(a) no matter in which any settlement proceeding or any interest of the Government is involved shall be referred to arbitration;

(b) no award which is contrary to any of the provisions of this Regulation shall have any effect.

35. (1) Whenever any matter is referred to arbitration, under section 33 or under the Second Schedule to the Code of Civil Procedure, 1908, three arbitrators shall be appointed: namely, one by the plaintiff, one by the defendant, and one by the Court.

Number and appointment of arbitrators.

(2) The Court shall consider any objection that may be made by the plaintiff or the defendant to any appointment within seven days from the date of such appointment, and may, if it thinks fit, direct that a fresh appointment be made.

36. Subject to the modifications contained in sections 32 to 35, the provisions of the Second Schedule of the Code of Civil Procedure, 1908, shall, so far as may be, apply to all references to arbitration made in accordance with the provisions of this Regulation.

Application of Second Schedule of Code of Civil Procedure, 1908.

37. The Crown shall be presumed, until the contrary is proved, to be entitled to the exclusive use and control of—

Use and control of rivers, &c.

(a) the water of all rivers and streams flowing in natural channels,

(Secs. 38-40.)

(b) all natural collections of water, and

(c) all tanks and irrigation-embankments belonging to, or constructed wholly or in part by, or at the expense of, the Government,

within the district.

Appeal.

**38.** (1) An original decree or order made by the Court of a Sub-divisional Officer in any civil or revenue suit, the value of which does not exceed fifty rupees, shall, subject to the provisions of this Regulation with respect to revision, be final.

(2) From every other decree or order made by the Court of a Sub-divisional Officer, and from every decree or order made in any civil or revenue suit by any other Court subordinate to the Court of the Deputy Commissioner, an appeal shall lie to the Court of the Deputy Commissioner.

(3) An original decree or order made by the Court of the Deputy Commissioner in any civil or revenue suit, the value of which does not exceed five hundred rupees, shall, subject to the provisions of this Regulation with respect to revision, be final.

(4) From every other original decree or order made by the Court of a Deputy Commissioner in any civil or revenue suit, an appeal shall lie to the Court of the Commissioner.

(5) Save as provided by sub-section (6), and subject to the provisions of this Regulation with respect to revision, every appellate decree or order of the Court of the Deputy Commissioner in any civil or revenue suit shall be final.

(6) An appeal from an appellate decree or order of the Court of the Deputy Commissioner in a civil or revenue suit, the value of which exceeds one thousand rupees, and in which the Deputy Commissioner has reversed or modified the orders of the Lower Court, shall lie to the Court of the Commissioner.

Revision.

**39.** The Commissioner or the Deputy Commissioner may, of his own motion or otherwise, call for the record of any civil or revenue case decided by any Court under his control and supervision, and may pass such order thereon as he may think fit.

## CHAPTER VI.

## RECOVERY OF PUBLIC DEMANDS.

Certificate  
of public  
debt is  
required.

**40.** Whenever—

(a) any sum due to the Government, or

(Secs. 41-44.)

(b) any rent due to a *sarbarakar* who, under the terms of the settlement made with him, has previously paid the amount thereof to the Government, or

(c) any plough-contribution due to a *sardar* or *mulha malik* who has previously paid the amount thereof to the Government,

remains unpaid on the date next following that on which payment is due, the accountant shall certify in writing to the Subdivisional Officer the fact of the arrear and the amount due.

41. (1) On receipt of any such certificate the Subdivisional Officer may, after making such inquiry as he thinks fit and if he be satisfied that the demand specified in the certificate or any part thereof is justly due, issue a notice to the defaulter ordering him within a given time,—

(a) to pay the amount specified in the notice, or

(b) to appear before him and state any objection he may have to paying such amount or any part thereof.

(2) When any objection is made under clause (b) of sub-section (1), the Subdivisional Officer shall, after making such inquiry as may be necessary, determine the same.

42. The Subdivisional Officer may recover any amount ascertained to be due in accordance with the provisions of section 41, together with all cost of realizing the same, by attachment and sale of any property belonging to the defaulter.

43. (1) The Subdivisional Officer shall not proceed against any moveable property of a *raiya*, unless and until he has satisfied himself that the *raiya* has no moveable property by the sale of which the sum due from him can be realized.

(2) Before any immovable property of a *raiya* is sold under the provisions of this Chapter, the case shall be reported for the orders of the Deputy Commissioner. On receipt of such report, the Deputy Commissioner may,

(a) order the sale of such property, or

(b) attach such property and make such arrangements as he thinks fit to liquidate the debt.

44. All the proceedings of a Subdivisional Officer under this Chapter shall be subject to revision by the Deputy Commissioner and by the Commissioner who may set aside or modify the orders of the said Subdivisional Officer in any way he thinks fit, but there shall be no appeal as a matter of right, to either of the said officers.

(Secs. 45-48.)

Register of  
proceedings.

**45.** Every Subdivisional Officer shall keep, in such form as may from time to time be prescribed by the Commissioner, a register of his proceedings under this Chapter; and every payment made by any defaulter shall be duly entered in such register.

## CHAPTER VII.

## POTLON.

Power to  
appoint  
and dismiss  
village-  
chaukidars.

**46.** Subject to the approval of the Deputy Commissioner, the Superintendent of Police may, after consulting the house-holders of any village, appoint any person to be a village-*chaukidar*, and may, for any misconduct or neglect of duty, dismiss any village-*chaukidar*.

Constitution  
of villages  
and realiza-  
tion of *chau-*  
*kidari* dues.

**47.** (1) The Deputy Commissioner may, from time to time by written order,—

(a) declare any local area or group of dwellings to be a village for the purposes of this Chapter, and

(b) direct each house-holder of the village to make a monthly or annual payment, in money or in grain, or in both, of such amount as may be fixed by the Deputy Commissioner, after consulting such house-holders, to defray the cost of the salary and uniform of the village-*chaukidar*.

(2) The said payments shall be made to the headman, *sarbarakar* or other person appointed by the Deputy Commissioner in this behalf.

(3) It shall be the duty of the person so appointed to see that the said payments are punctually made, and duly to account for the same; and the Deputy Commissioner may impose a fine not exceeding ten rupees on any person who neglects to perform such duty.

(4) All arrears of the said payments may be realized from the said house-holders, under the written order of the Deputy Commissioner in each case, by sale of the defaulter's moveable property.

(5) The Deputy Commissioner may authorize the Subdivisional Officer to exercise all or any of his powers under this section.

Penalty for  
village-*chau-*  
*kidar* with-  
drawing  
from his  
duties, etc.

**48.** Every village-*chaukidar* who—

(a) withdraws from the duties of his office without the express permission of the Superintendent of Police or of some officer duly authorized by him to grant such permission, or

(b) resigns his office without the permission of the Superintendent of Police, unless he has given at least two months' notice of his intention to resign, or

(c) is guilty of cowardice,



(Secs. 49-50.)

shall be liable, on conviction before a Magistrate, to a fine not exceeding ten rupees :

Provided that no prosecution shall be instituted against any village *chaukidar* under this section without the previous sanction of the Deputy Commissioner.

49. Any village-*chaukidar* who is guilty of any wilful misconduct in his office or neglect of his duty,

Power to fine village-*chaukidars* departmentally.

45 of 1860

such misconduct or neglect not being an offence within the meaning of the Indian Penal Code, or of section 48, and not being of so grave a character as, in the opinion of the Superintendent of Police, to require his dismissal from his office,

shall be liable, under the orders of such Superintendent, to a fine not exceeding three rupees.

50. Every village-*chaukidar* appointed under this Regulation shall perform the following duties, namely :—

Duties of village-*chaukidar*.

(i) he shall give immediate information to the officer in charge of the police-station within the limits of which the village of which he is a *chaukidar* is situated, of all the matters specified in section 45 of the Code of Criminal Procedure, 1898, which may occur within such village or which may come to his notice otherwise ;

3 of 1898.

(ii) he shall keep the police informed of all disputes which are likely to lead to any riot or serious affray ;

(iii) he shall arrest—

all proclaimed offenders and escaped convicts,

all persons whom he may find in the act of committing any of the offences specified in section 45 of the Code of Criminal Procedure, 1898, and

1 of 1898.

any person against whom a reasonable suspicion exists of his having been concerned in any offence so specified, whether such offence has been or is being committed within or outside his village ;

(iv) he shall observe, and from time to time, report to the officer in charge of the police-station within the limits of which such village is situated—

the movements of all bad characters in such village,

the movements of any other person who may be lurking in such village, with a view to committing any offence, or who may be engaged in any other illegal or immoral activity.

## (Secs. 51-54.)

- (v) he shall report to the officer in charge of the said police-station the arrival of any suspicious characters or vagrants or wandering gangs in the neighbourhood;
- (vi) he shall present himself at the said police-station at such intervals as the Deputy Commissioner may direct;
- (vii) he shall supply any local information which the Deputy Commissioner or the Superintendent of Police may require; and
- (viii) he shall obey the orders of the Deputy Commissioner and of the Superintendent of Police with respect to—  
the place where he is to reside, keeping watch in the village, and other matters connected with his duties as village *chaukidar*.

Procedure  
on arrest by  
village-  
*chaukidar*.

**51.** Whenever a village-*chaukidar* arrests any person, he shall forthwith take the person so arrested to the police-station within the limits of which the village of which he is a *chaukidar* is situated :

Provided that, if the arrest is made at night, such person may be so taken as soon as convenient on the following morning.

Appeal from  
order of  
Superinten-  
dent of  
Police.

**52.** An appeal shall lie to the Deputy Commissioner from every order of the Superintendent of Police punishing a village-*chaukidar* with fine or dismissal; and, subject to the general power of revision of the Commissioner, the order which the Deputy Commissioner may pass on such appeal shall be final.

Application  
of the  
Police Act,  
1861.

**53.** The district shall be deemed to be a general police-district within the meaning of the Police Act, 1861<sup>[1]</sup>, as modified by the Bengal Police Act, 1869<sup>[2]</sup>; and, except in so far as the Local Government otherwise directs, the Commissioner shall exercise in it all powers and authorities conferred on an Inspector-General of Police.

b. of 1861.  
Ben. Act  
7 of 1869.

Power to  
make rules.

**54.** (1) The Local Government may make rules—

- (a) to regulate the appointment, and to prescribe additional duties, of village-*chaukidars*,
- (b) to regulate the grant of rewards to village-*chaukidars*, village officers and *panchayats*,
- (c) to prescribe the duties and powers of *sarbarakars*, *sardars*, *mutha maliks* and other village headmen, and members of *panchayats*, as officers of police,

[1] Printed in General Acts, 1834—1872, Ed. 1928, p. 114.

[2] Printed in Vol. II of this Code.

(Secs. 55 and 57.)

(d) to prescribe the manner in which village-officers shall watch and inspect bad characters, and

(e) to prescribe penalties for the breach of rules made under clause (c) or clause (d) of this section.

(2) The penalties prescribed under clause (e) may be fine extending to fifty rupees, or imprisonment extending to three months, or both.

## CHAPTER VIII.

## REGISTRATION OF DOCUMENTS.

55. (1) The Subdivisional Officer of Angul and the Subdivisional Officer of the Khondmals shall be *ex officio* Sub-Registrars of their respective subdivisions : Sub Regis-  
trars

Provided that the Deputy Commissioner may, with the approval of the Commissioner, direct any other gazetted officer to perform the duties of Sub-Registrar of either subdivision instead of the Subdivisional Officer; and any officer to whom such a direction is given shall thereupon be a Sub-Registrar *ex officio*.

(2) The Local Government may appoint such other persons as it thinks proper to be Sub-Registrars for the subdivisions of the district, or for any part of them.

46 of 1860. (3) Every Sub-Registrar shall be deemed to be a public servant within the meaning of the Indian Penal Code.

56. (1) The Deputy Commissioner shall be *ex officio* Registrar of the district; and all Sub-Registrars appointed by or under section 55 shall be subject to his general control and superintendence. Registrar.

(2) The Deputy Commissioner may, by order in writing, delegate his powers as Registrar during his absence from headquarters to any Sub-Registrar.

57. All documents may be registered at the option of the parties by or in whose favour such documents are executed; but the Local Government may, by notification in the Bihar and Orissa Gazette, declare, with respect to documents of any class described in such notification,— Power to  
direct  
compulsory  
registration  
in certain  
cases.

(a) that documents of that class executed on or after a date to be prescribed by the said notification, and purporting or operating to create, declare, assign or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent to or in immoveable property situate

(Secs. 58-60.)

in any part of the district specified in the notification, shall be registered in accordance with the provisions of this Regulation, and

- (b) that no such document shall affect any property comprised or referred to therein, or shall be received in evidence of any transaction affecting such property unless it has been so registered.

Power to  
make rules.

**58.** (1) The Local Government may make rules to regulate the registration of documents under this Regulation.

(2) In particular, and without prejudice to the generality of the foregoing provisions, the Local Government may make rules—

- (a) to define the time, place and mode of presenting documents for registration ;
- (b) to regulate the duties and powers of registering officers and of the Deputy Commissioner as *ex officio* Registrar, and to specify the cases in which those officers may enforce the appearance of executants and witnesses ; and
- (c) to fix the fees payable for registration, searches and copies, and the time when fees shall be payable.

(3) All such rules shall be published in the Bihar and Orissa Gazette.

(4) The provisions of sections 81 and 82 of the Indian Registration Act, 1908<sup>[1]</sup>, regarding offences by registering officers and other persons, shall, so far as they can be made applicable, apply to like offences when committed with respect to the registration of documents under this regulation. 10 of 1908.

## CHAPTER IX.

### LANDLORD AND TENANT.

Meaning of  
" raiyat."

**59.** In this Chapter, the word "*raiya*," as used with reference to any land, includes a village *sarbarakar* as regards land possessed and cultivated by him.

Raising of  
rent of  
*raiya*  
land.

**60.** No Court shall enforce or recognize any contract which affects the rent payable by a *raiya* for his holding—

- (a) where there has been a settlement, by enhancing the rent recorded at such settlement or by making such rent payable in a manner different from that recorded at the settlement, or

## (Secs. 61-62.)

(b) where there has been no settlement, by enhancing the rent to an amount exceeding that which the Court considers fair and equitable,

unless the contract or agreement has been made with the written permission of the Deputy Commissioner.

61. (1) No transfer or change (whether permanent or temporary) by a tenure-holder or *raiya*t of his right in his tenure or holding or any portion thereof, whether by mortgage, lease, sale, gift, exchange or otherwise, shall be valid unless it is made with the written consent of the Deputy Commissioner. Restrictions on transfer of their rights by tenure-holders or *raiya*ts

(2) No transfer or change in contravention of sub-section (1) shall be registered, or shall be in any way recognized as valid by any Court, in the exercise of civil or revenue jurisdiction.

(3) If any tenure-holder or *raiya*t transfers his right in his tenure or holding or any portion thereof in contravention of sub-section (1), the Deputy Commissioner may, in his discretion, eject the person in possession of the land in respect of which such transfer was made, and may either—

(a) restore the land to the tenant who transferred it, or to any of his heirs, or

(b) re-settle the land with another tenant.

*Explanation.*—For the purpose of this sub-section a mortgage with possession shall be deemed to be a transfer.

(4) No suit shall be maintainable in any Court in respect of such ejectment; but an appeal shall lie to the Commissioner if presented within three months from the date of the order of ejectment, and his decision shall be final:

Provided that nothing in this section shall affect the validity of any transfer of a *raiya*t's right in his holding or any portion thereof made in the Khondmals subdivision before the first day of January, 1897.

62. No decree or order shall be passed by any Court for the sale of the right of a *raiya*t in his holding, nor shall any such right be sold in execution of any decree or order: Restrictions on sale of *raiya*t's rights under order of Court.

Provided that:—

(a) any holding may, subject to the restrictions imposed by section 48, be sold, in execution of a decree of a competent Court, to recover an arrear of rent which has accrued

## (Secs. 63- 67.)

(b) nothing in this section shall prevent the sale of a holding under Chapter VI, and

(c) in the Khondmals subdivision, nothing in this section shall affect the right to execute a decree for sale of a holding passed, or the terms or conditions of any contract registered, before the first day of January, 1905.

Procedure  
on surrender  
or abandon-  
ment of  
holding.

**63.** If a *raiyat* surrenders or abandons his holding, the Deputy Commissioner may, in his discretion, settle the holding with any heir or relation of such *raiyat*, or with any other *raiyat*.

Ejectment.

**64.** A tenant shall not be ejected from his tenure or holding without an order of the Deputy Commissioner.

Delegation  
of powers of  
Deputy  
Commis-  
sioner.

**65.** With the previous sanction of the Commissioner, the Deputy Commissioner may delegate all or any of his powers under this Chapter to the Subdivisional Officer.

Control by  
Commis-  
sioner.

**66.** All proceedings of the Deputy Commissioner or Subdivisional Officer under this Chapter shall be subject to revision by the Commissioner.

Power to  
make rules.

**67.** The Local Government may make rules—

- (a) to provide for the recording of changes occurring in tenancies in the Angul Subdivision, and the conduct of inquiries respecting such changes;
- (b) to regulate the conduct of inquiries respecting changes in tenancies in the Khondmals Subdivision;
- (c) to prescribe the duties of *sardars*, *mutha maliks* and heads of villages as to reporting changes in tenancies;
- (d) to regulate the maintenance of survey and settlement records;
- (e) to prescribe the duties of village *sarbarakars*, *kanungos* and revising officers;
- (f) to guide the Deputy Commissioner or Subdivisional Officer in the exercise of any of his powers under this Chapter; and
- (g) to prescribe a penalty which may extend to a fine of one hundred rupees for the breach of any rule made under clauses (a), (b), (c), (d) and (e) of this section.

(Secs. 68-69.)

## CHAPTER X

## SANITATION

68. (1) The Local Government may, by notification in the Bihar and Orissa Gazette, declare that any area specified in such notification shall be subject to Sanitary and Municipal control, and may make rules to provide for such control. Power to make rules as to sanitation

(2) Such rules may provide for--

- (i) preventing nuisances affecting the public health, safety or convenience;
- (ii) regulating the disposal of night-soil, the contents of privies, drains and cesspools, offensive matter, carcasses of animals and rubbish and the management of privies, drains and cesspools;
- (iii) regulating cremations and burials and the disposal of corpses;
- (iv) regulating the use of, and preventing nuisances in regard to, public water-supply, bathing and washing places, rivers, streams, reservoirs, tanks and wells;
- (v) regulating traffic on roads, and preventing obstructions, encroachments and nuisances on or near roads;
- (vi) preventing damage to, or encroachment on public lands or grounds;

and may provide that the breach of any such rule shall be punishable with fine which may extend to twenty rupees

## CHAPTER XI.

## MISCELLANEOUS.

69. (1) The Deputy Commissioner may require, or authorize any Subdivisional Officer to require, any proprietor, farmer, rent collector, *sarbarakar*, *sardar*, *mutha malik* or occupier of land, Power of Deputy Commissioner to summon land-holders, etc.

- (a) to furnish such information, accounts and documents as he may be capable of furnishing, and
- (b) to supply provisions and labour at market rates for the use of troops and officers of the Government marching in or through the district on the public service

(2) Any such person failing to comply with any such requisition shall be punishable with fine which may extend to one hundred rupees.

## (Secs. 70-75.)

(3) Any person aggrieved by any order of the Deputy Commissioner under this section may appeal to the Commissioner, whose orders shall be final.

Auction-  
sales and  
liability of  
auction-  
purchasers.

**70.** (1) Whenever any property is sold by public auction by or under the orders of a public servant competent to cause the sale of such property, the auction-purchaser of such property shall be bound to pay the amount for which such property is sold, at such time and at such place as may be notified at the time of sale, and shall be bound to conform to all the conditions under which the sale is made.

(2) If the auction-purchaser fails to pay the amount for which the property is sold, at such time or place as is notified at the time of sale, or fails to comply with any of the conditions under which the sale is made, the officer by or under whose orders the property is sold may direct the re-sale of such property.

(3) Such re-sale shall be made at the risk of the auction-purchaser at the first sale; and the difference between any bid made by him and the proceeds of the second sale rendered necessary in consequence of his default shall be recoverable from him, together with all costs incurred, as a sum due to the Government.

*Explanation.*—The expression "public servant," as used in this section, has the same meaning as in the Indian Penal Code.

15 of 1900

Control of  
agents and  
petition-  
writers.

**71.** The Deputy Commissioner may, with the sanction of the Commissioner, make rules to regulate the writing of petitions and the conduct of cases in his Court and in the Courts subordinate to him.

Legal prac-  
titioners.

**72.** The Local Government may make rules to prohibit, restrict or regulate the appearance of legal practitioners in cases arising in the district.

Power of  
Court to  
grant ex-  
emption  
from pay-  
ment of  
court-fees.

**73.** Notwithstanding anything contained in the Court-fees Act, 1870<sup>[1]</sup>, the presiding officer of any Court may, in special cases, by an order in writing and for reasons to be recorded therein, exempt any document from the payment of such fees.

7 of 1870.

Oath or  
solemn  
affirmation.

**74.** Notwithstanding anything contained in the Indian Oaths Act, 1873<sup>[2]</sup>, any form of oath or solemn affirmation which is common amongst, or is held binding by, the persons of the race or persuasion to which any witness in, or party to, any judicial proceeding (not being the accused in any criminal proceeding) belongs, and is not repugnant to justice or decency, and does not purport to affect any third person, may be administered to such witness or party.

10 of 1913.

**75.** (Repeal.) *Rep. by the Repealing Act, 1927 (12 of 1927).*

[1] Printed in General Acts, 1834—1872, Ed. 1928, p. 280.

[2] Printed in General Acts, 1873—1886, Ed. 1928, p. 7.



## THE SCHEDULE.

ENACTMENTS DECLARED IN FORCE IN THE DISTRICT OF ANGUL OR  
PART THEREOF.

(See Section 3.)

1	2	3
Number and year	Short title.	Places in which in force.

PART I.—*Bengal Regulations*

II of 1793 (section 7 and clause tenth of section 8)	The Bengal Land-revenue Regulation, 1793.	The whole district.
[1]*           *           *	*           *	*
XI of 1806	The Bengal Troops Transport and Travellers' Assistance Regulation, 1806.	Ditto.
XI of 1812	The Bengal Foreign Immigrants Regulation, 1812.	Ditto.
III of 1818	The Bengal State Prisoners Regulation, 1818.	Ditto.
XI of 1822 (section 38)	The Bengal Government Indemnity Regulation, 1822.	Ditto.
VI of 1825	The Bengal Troops Transport Regulation, 1825.	Ditto.
XVII of 1829	The Bengal Sati Regulation, 1829	Ditto.

PART II.—*Acts of the Governor General of India in Council.*

XVIII of 1850	..	The Judicial Officers' Protection Act, 1850.	The whole district.
XXXIV of 1850	..	The State Prisoners Act, 1850	Ditto.
XII of 1855	..	The Legal Representatives' Suits Act, 1855.	Ditto.
XIII of 1855	..	The Indian Fatal Accidents Act, 1855.	Ditto.
XV of 1856	..	The Hindu Widows' Re-marriage Act, 1856.	Ditto.
[2]*           *           *		*           *           *	*
III of 1858	..	The State Prisoners Act, 1858	Ditto.
XLV of 1860	..	The Indian Penal Code	Ditto.
V of 1861	..	The Police Act, 1861	Ditto.

[1] The entry relating to the Bengal State-Offences Regulation, 1804 (10 of 1804), repealed by Act 12 of 1927, s. 2 and sch., is omitted.

[2] The entry relating to the State-Offences Act, 1857 (11 of 1857), repealed by *ibid.*, is omitted.

(The Schedule.)

THE SCHEDULE—*contd.*

	Short title.	Places in which in force.
PART II.— <i>Acts of the Governor-General of India in Council— contd.</i>		
LII of 1864	The Foreigners Act, 1864	The whole district
IV of 1869	The Indian Divorce Act	Ditto.
VII of 1870	The Court-fees Act, 1870	The Angul Sub division
I of 1871 ..	The Cattle-trespass Act, 1871	The whole district.
V of 1871 (section 15)	The Prisoners Act, 1871 ..	Ditto.
I of 1872 ..	The Indian Evidence Act, 1872 ..	Ditto.
III of 1872 ..	The Special Marriage Act, 1872	Ditto.
X of 1873 ..	The Indian Oaths Act, 1873	Ditto.
[1]*	* * *	*
IX of 1874	The European Vagrancy Act, 1874	Ditto.
XIV of 1874	The Scheduled Districts Act, 1874	Ditto.
I of 1878	The Opium Act, 1878 ..	Ditto.
VI of 1878	The Indian Treasure-trove Act, 1878.	Ditto.
VII of 1878 .. ..	The Indian Forest Act, 1878 ..	Ditto.
VIII of 1878 (sections 144 to 154).	The Sea Customs Act, 1878 ..	Ditto.
XI of 1878 (except section 15).	The Indian Arms Act, 1878 ..	Ditto.
[2]* * *	* * *	*
XIX of 1883 .. ..	The Land Improvement Loans Act, 1883.	Ditto.
XIII of 1885 .. ..	The Indian Telegraph Act, 1885	Ditto.
XVIII of 1885 .. ..	The Land Acquisition (Minors) Act, 1885.	Ditto.
IX of 1887 .. ..	The Provincial Small Cause Court Act, 1887.	Ditto.
VII of 1889 .. ..	The Succession Certificate Act, 1889.	Ditto.
I of 1890 .. ..	The Revenue Recovery Act, 1890	Ditto.
VIII of 1890 .. ..	The Guardian and Wards Act, 1890.	Ditto.

[1] The entry relating to the Administrator General's Act, 1874 (2 of 1874), repealed by Act 12 of 1927, s. 2 and sch., is omitted.

[2] The entry relating to the Probate and Administration Act, 1881 (5 of 1881), repealed by *ibid.*, is omitted.

of 1913.]

*The Angul Laws Regulation, 1913.*

(The Schedule.)

THE SCHEDULE—*contd.*

1	2	3
Number and year.	Short title.	Places in which in force.
PART II. <i>Acts of the Governor-General of India in Council—contd.</i>		
XI of 1890, section 2, except sub-section (2), section 5, so much of section 8 as relates to section 5, and sections 9 and 11.	The Prevention of Cruelty to Animals Act, 1890.	The whole district.
XIII of 1890 (section 9) ..	The Excise (Malt Liquors) Act, 1890.	Ditto.
I of 1894 .. ..	The Land Acquisition Act, 1894	Ditto.
IX of 1894 .. ..	The Prisons Act, 1894 ..	Ditto.
III of 1897 .. ..	The Epidemic Diseases Act, 1897	Ditto.
VIII of 1897 .. ..	The Reformatory Schools Act, 1897.	Ditto.
[1]* .. ..	* .. .. *	*
X of 1897 .. ..	The General Clauses Act, 1897 ..	Ditto.
XIV of 1897 .. ..	The Indian Short Titles Act, 1897	Ditto.
V of 1898 .. ..	The Code of Criminal Procedure, 1898.	Ditto.
VI of 1898 .. ..	The Indian Post Office Act, 1898	Ditto.
II of 1899 .. ..	The Indian Stamp Act, 1899 ..	The Angul Sub-division.
XIII of 1899 .. ..	The Glanders and Farcy Act, 1899	The whole district.
III of 1900 .. ..	The Prisoners Act, 1900 ..	Ditto.
I of 1903 .. ..	The Repealing and Amending Act, 1903.	Ditto. [2]
VII of 1903 .. ..	The Indian Works of Defence Act, 1903.	Ditto.
XV of 1903 .. ..	The Indian Extradition Act, 1903	Ditto.
I of 1904 .. ..	The Poisons Act, 1904 ..	Ditto.
III of 1906 .. ..	The Indian Coinage Act, 1906 ..	Ditto.
V of 1908 .. ..	The Code of Civil Procedure, 1908	Ditto.
VI of 1908 .. ..	The Explosive Substances Act, 1908.	Ditto.

[1] The entry relating to the Provident Funds Act, 1897, (9 of 1897) which was repealed by Act 12 of 1927, s. 2 and Sch., is omitted.

[2] Now called the Amending Act, 1903.

## (The Schedule.)

## THE SCHEDULE—concl'd.

Number and year.	Short title.	Places in which in force.
PART II.—Acts of the Governor-General of India in Council—concl'd.		
IX of 1908 .. ..	The Indian Limitation Act, 1908	The Angul Sub division.
XVI of 1908 (sections 81 and 82).	The Indian Registration Act, 1908	The whole district
IV of 1909 .. ..	The Whipping Act, 1909 ..	Ditto
[1]* .. ..	* .. .. *	*
V of 1910 .. ..	The Dourine Act, 1910 ..	Ditto.
VII of 1911 .. ..	The Indian Army Act, 1911 ..	Ditto
IV of 1912 (except Chapter IV).	The Indian Lunacy Act, 1912 ..	Ditto.

## PART III.—Acts of the Lieutenant-Governor of Bengal in Council.

IV of 1865 .. ..	The Bengal Prevention of Inoculation Act, 1865.	The Angul Sub division.
V of 1875 .. ..	The Bengal Survey Act, 1875 ..	The whole district
III of 1876 .. ..	The Bengal Irrigation Act, 1876	Ditto.
[2] I of 1899 .. ..	The Bengal General Clauses Act 1899.	Ditto.
III of 1906 .. ..	The Bengal Disorderly Houses Act, 1906.	Ditto.
[3] V of 1909 .. ..	The Bengal Excise Act, 1909 ..	Ditto.

[1] The entry relating to the Indian Paper Currency Act, 1910 (II o. 1910), repealed by Act 12 of 1927, s. 2 and sch., is omitted.

[2] Bengal Act 1 of 1899 has been repealed in Bihar and Orissa, by the Bihar and Orissa General Clauses Act, 1917, (B. & O. Act 1 of 1917) which has been declared in force in Angul.

[3] Bengal Act 5 of 1909 has been repealed in Bihar and Orissa, by the Bihar and Orissa Excise Act, 1915 (B. & O. Act 2 of 1915), s. 1(2) which extends to Angul.

APPENDIX.

LIST OF ENACTMENTS DECLARED IN FORCE IN ANGUL UNDER SECTION 5.

1	2	3
Number and year.	Short title.	Place in which in force.
<i>I.—Acts of the Governor-General of India in Council and of the Indian Legislature.</i>		
V of 1873 .. ..	The Government Savings Bank Act, 1873.	The whole district.
[1]IX of 1897 .. ..	The Provident Funds Act, 1897	Ditto
III of 1898 .. ..	The Lepers Act, 1898 ..	Ditto.
VIII of 1899 .. ..	The Indian Petroleum Act, 1899 as amended by the Amending Act, 1901 (11 of 1901) and the Decentralization Act, 1914 (4 of 1914).	Ditto.
VIII of 1914 .. ..	The Indian Motor Vehicles Act, 1914.	Ditto.
V of 1917 .. ..	The Destruction of Records Act, 1917.	Ditto.
XVII of 1917 .. ..	The Government Savings Bank (Amendment) Act, 1917.	Ditto.
XVIII of 1917.. ..	The Post Office Cash Certificate Act, 1917.	Ditto.
XXII of 1918 .. ..	The Bronze Coin (Legal Tender) Act, 1918.	Ditto.
XXIII of 1918 .. ..	The Cotton Cloth Act, 1918 ..	Ditto.
[1]XIV of 1919 .. ..	The Provident Funds (Amendment) Act, 1919.	Ditto.
X of 1920 .. ..	The Indian Securities Act, 1920	Ditto.
XIV of 1920 .. ..	The Charitable and Religious Trusts Act, 1920.	Ditto.
XXVII of 1920 .. ..	The Indian Motor Vehicles (Amendment) Act, 1920.	Ditto.
XXXII of 1920 .. ..	The Post Office Cash Certificate (Amendment) Act, 1920.	Ditto.
XLVIII of 1920 .. ..	The Indian Territorial Force Act, 1920.	Ditto.
XLIX of 1920 .. ..	The Auxiliary Force Act, 1920 ..	Ditto.
XI of 1922 .. ..	The Indian Income Tax Act, 1922	Ditto.

[1] Acts 9 of 1897 and 14 of 1919 have been repealed by the Provident Funds Act, 1925 (19 of 1925) which has been declared in force in Angul see post, page 792.

APPENDIX - *contd.*

3

Number and year.	Short title.	Place, where it is
<i>I.—Acts of the Governor-General of India in Council and of the Legislature - <i>contd.</i></i>		
XXII of 1922 ..	The Police (Incitement to Disaffection) Act, 1922.	
IV of 1923 ..	..   The Indians Mines Act, 1923	Ditto
VIII of 1923 ..	..   The Workmen's Compensation Act, 1923.	Ditto
XV of 1923 ..	..   The Indian Income-tax (Amendment) Act, 1923.	Ditto
XVI of 1923 ..	The Government Savings Bank (Amendment) Act, 1923	Ditto
XXVII of 1923 ..	..   The Indian Income-tax (further amendment) Act, 1923.	Ditto
XXXI of 1923 ..	..   The Indian Territorial and Auxiliary Forces (Amendment) Act, 1923.	Ditto
XLI of 1923	The Charitable and Religious Trusts (Amendment) Act, 1923	Ditto
VII of 1924	The Repealing and Amending Act, 1924 so far it relates to the Indian Income-tax Act, 1922 (XI of 1922) and the Workmen's Compensation Act, 1923 (VIII of 1923).	Ditto
XI of 1924 ..	..   The Indian Income-tax (Amendment) Act, 1924	Ditto
XV of 1924	The Indian Motor Vehicles (Amendment) Act, 1924.	Ditto
V of 1925	The Indian Income-tax (Amendment) Act, 1925.	Ditto
XVI of 1925	The Indian Income-tax (Second Amendment) Act, 1925.	Ditto
XIX of 1925	The Provident Funds Act, 1925, as amended by the Provident Funds (Amendment) Act, 1925 (Act XXVIII of 1925).	Ditto
XXIV of 1926.	The Indian Income-tax (Amendment) Act, 1926.	Ditto.
XXIX of 1926..	..   The Workmen's Compensation (Amendment) Act, 1926.	Ditto.

APPENDIX—concl'd.

1	2	3
Number and year.	Short title.	Place in which in force.

*II.—Acts of the Governor of Bihar and Orissa in Council and of the Local Legislature of Bihar and Orissa.*

II of 1916	..	..	The Bihar and Orissa Medical Act, 1916.	The whole district.
I of 1917	..	..	The Bihar and Orissa General Clauses Act, 1917.	Ditto.
VII of 1922	..	..	The Bihar and Orissa Municipal Act, 1922.	The Sadr Subdivision.
IX of 1922	..	..	The Bihar and Orissa Medical (Amendment) Act, 1922.	The whole district.
VI of 1923	..	..	The Bihar and Orissa State Aid to Industries Act, 1923.	Ditto.
III of 1926	..	..	The Bihar and Orissa Highways Act, 1926.	Ditto.
II of 1928	..	..	The Bihar and Orissa Opium Smoking Act, 1928.	Ditto.
II of 1930	..	.	The Bihar and Orissa Motor Vehicles Taxation Act, 1930.	Ditto.

REGULATION No. 6 OF 1922.

[THE ANGUL LAWS (AMENDMENT) REGULATION, 1922.][<sup>1</sup>]

(5th July, 1922).

**A Regulation to amend the Angul Laws Regulation, 1913.**

WHEREAS it is expedient to amend the Angul Laws Regulation, 3 of 1913, 1913; It is hereby enacted as follows :—

Short title  
and com-  
mencement.

**1.** (1) This Regulation may be called the Angul Laws (Amendment) Regulation, 1922; and

(2) It shall come into force at once.

Amend-  
ment of  
section 2,  
Regulation  
3, 1913.

**2.** After clause (a) of section 2 of the Angul Laws Regulation, 1913, 3 of 1913, the following clause shall be inserted, namely :—

(aa) [Printed *ante*, p. 767.]

[1] Local Extent.—The local extent of this Regulation is the same as that of Regulation 3 of 1913, as to which see footnote [1] on p. 767 *ante*.



REGULATION No. 7 OF 1925.

[THE SONTHAL PARGANAS SETTLEMENT (AMENDMENT) REGULATION,  
1925.]<sup>[1]</sup>

(26th December, 1925).

**A Regulation to amend the Sonthal Parganas Settlement Regulation,  
1872.**

of 1872.

WHEREAS it is expedient to amend the Sonthal Parganas Settlement Regulation, 1872, in the manner hereinafter appearing; It is hereby enacted as follows :—

1. This Regulation may be called the Sonthal Parganas Settlement Short title.  
(Amendment) Regulation, 1925.

3 of 1872.

2. After section 27 of the Sonthal Parganas Settlement Regulation, 1872 (hereinafter called the said Regulation), the following sections shall be inserted, namely :—

27A, 27B. [Printed *ante*, pp. 709-710.]

Insertion of  
new sec-  
tions 27A  
and 27B  
in Regula-  
tion 3 of  
1872.

3. After clause (g) of section 28 of the said Regulation the following clause shall be added, namely :—

(h) [Printed *ante*, p. 710.]

Amendment  
of section  
28, Regula-  
tion 3 of  
1872.

4. Nothing in this Regulation shall bar a suit for rent which would not have been barred under the law in force before the date of the commencement of this Regulation, provided that such suit be brought within a period of one year from the commencement of this Regulation.

Savings.

[1] Local Extent.—The local extent of this Regulation is the same as that of Regulation 3 of 1872, as to which see footnote [1] on p. 700 *ante*.

REGULATION No. 1 OF 1928.

[THE SONTHAL PARGANAS SETTLEMENT (AMENDMENT) REGULATION,  
1928].<sup>[1]</sup>

(21st January, 1928).

A Regulation further to amend the Sonthal Parganas Settlement  
Regulation, 1872.

Short  
and  
mona

WHEREAS it is expedient further to amend the Sonthal Parganas Settlement Regulation 3 of 1872, in the manner hereinafter appearing, it is hereby enacted as follows:—

Amendment  
section  
Regu-  
3, 18

Short title.

1. This Regulation may be called the Sonthal Parganas Settlement (Amendment) Regulation, 1928.

Amendment  
of section  
18, Regula-  
tion 3 of  
1872.

2. After clause (a) of section 18 of the Sonthal Parganas Settlement Regulation 3 of 1872, the following proviso shall be added, namely:—

[Printed ante, p. 706.]

[1] Local Extent.—The local extent of this Regulation is the same as that of Regulation 3 of 1872, as to which see footnote (2) on p. 700 ante.

